

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

Trial Court Unification:
Revision of Codes

July 1998

California Law Revision Commission
4000 Middlefield Road, Room D-1
Palo Alto, CA 94303-4739

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NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative.

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STATE OF CALIFORNIA

PETE WILSON, Governor

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July 17, 1998

To: The Honorable Pete Wilson
Governor of California, and
The Legislature of California

This recommendation proposes revisions of the California codes to implement trial court unification under SCA 4 (Proposition 220).

The objective of the proposed revisions is generally to preserve existing rights and procedures in the context of unification. There should be no disparity of treatment between a party appearing in municipal court and a similarly situated party appearing in superior court as a result of unification of the municipal and superior courts in the county.

The Law Revision Commission is indebted to its consultant, Professor J. Clark Kelso of the Institute for Legislative Practice, McGeorge School of Law, for his assistance in preparing this recommendation. The Commission appreciates the cooperation and assistance of the Judicial Council, and the assistance of the State Bar, especially the Litigation Section and the Committee on Administration of Justice.

This recommendation is submitted pursuant to Resolution Chapter 102 of the Statutes of 1997.

Respectfully submitted,

Edwin K. Marzec
Chairperson

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TRIAL COURT UNIFICATION: REVISION OF CODES

BACKGROUND

Trial Court Unification Under SCA 4

Senate Constitutional Amendment 4 (Lockyer) was enacted as Resolution Chapter 36 of the Statutes of 1996.¹ It provides for unification of the municipal and superior courts in a county on a vote of a majority of the municipal court judges and a majority of the superior court judges in that county.²

The measure appeared on the ballot as Proposition 220 at the statewide election on June 2, 1998. It was approved by the voters and became operative the day after the election.³ The measure includes a number of provisions that are self-executing,⁴ and other provisions that apply only on unification of the municipal and superior courts in a county.⁵

1. The text of SCA 4 is set out in the Appendix, *infra* at 87-96.

2. Cal. Const. art. VI, § 5(e).

3. Cal. Const. art. XVIII, § 4.

4. The measure contains a number of constitutional revisions that apply regardless of whether the courts in any county ever elect to unify. These include:

(1) Creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

(2) Changes in structure of Judicial Council. *Id.* § 6.

(3) Protection of the appellate jurisdiction of the courts of appeal in causes of a type within that jurisdiction on June 30, 1995. *Id.* § 11(a).

(4) Delegation of the appellate jurisdiction of the superior court to causes prescribed by statute. *Id.* § 11(b).

(5) Change in the date of an election to fill a superior court vacancy (to the next general election after the second January following the vacancy). *Id.* § 16(c).

5. Provisions contingent on unification within a county include:

(1) Composition of Judicial Council. Cal. Const. art. VI, § 6.

(2) Composition of Commission on Judicial Performance. *Id.* § 8.

Role and Methodology of Law Revision Commission

Both the self-executing provisions and the other provisions of SCA 4 require conforming or implementing legislation. The Legislature has directed the Law Revision Commission to report recommendations “pertaining to statutory changes that may be necessitated by court unification.”⁶ This assignment follows an earlier legislative assignment in which the Commission made recommendations on the constitutional revisions necessary to implement trial court unification.⁷

The Commission engaged the services of the Institute for Legislative Practice and its director, Professor J. Clark Kelso of McGeorge Law School, to prepare initial drafts of suggested code revisions. The initial drafts were reviewed by the Judicial Council, which established working groups for this purpose, and were revised appropriately before being considered by the Law Revision Commission. The Commission issued a series of tentative recommendations, which were publicized and circulated for comment before the Commission adopted its final recommendations for code revision.

In the interest of submitting its recommendations to the Governor and Legislature during the 1998 legislative session, for enactment at that session, the Commission has narrowly limited its recommendations to generally preserve existing procedures in the context of unification. The objective of the proposed revisions is to preserve existing rights and procedures despite unification, with no disparity of treatment between a party appearing in municipal court and a similarly situated party appearing in superior court as a result of unification of the municipal and superior courts in the county.

(3) Election of judges in unified counties. *Id.* § 16(b)(1).

(4) Transitional provisions for unification. *Id.* § 23.

6. 1997 Cal. Stat. res. ch. 102; see also 1998 Cal. Stat. res. ch. 91.

7. See *Trial Court Unification: Constitutional Revision* (SCA 3), 24 Cal. L. Revision Comm’n Reports 1 (1994); *Trial Court Unification: Transitional Provisions for SCA 3*, 24 Cal. L. Revision Comm’n Reports 627 (1994).

However, the existing substantive and procedural distinctions between traditional superior court cases, traditional municipal court cases, and small claims cases deserve reexamination in light of unification.⁸ The Law Revision Commission has also identified and compiled a number of other issues that may be appropriate for future study.⁹

Drafting Conventions

Any legislation introduced may include not only changes necessitated by SCA 4, but also unrelated technical revisions requested by Legislative Counsel.¹⁰ To highlight the SCA 4 changes for those who have occasion to review them, this recommendation does not include technical revisions unrelated to SCA 4.¹¹

The draft does, however, delete most existing statutory references to justice courts. Justice courts have been eliminated from California's judicial structure,¹² but the statutes have not been revised to account for this.¹³ A few statutory references to justice courts are retained, for a variety of reasons.¹⁴

8. See discussion of "Issues in Judicial Administration Appropriate for Future Study" *infra*.

9. *Id.*

10. For example, Legislative Counsel habitually expunges the word "such" from the text of all statutes.

11. Gender-neutral language is adopted throughout, however.

12. 1994 Cal. Stat. res. ch. 113 (SCA 7) (Prop. 191, approved Nov. 8, 1994). The draft also eliminates the few remaining references to the justices' court — an obsolete inferior court superseded by the justice court by Constitutional Amendment on November 7, 1950. See Mil. & Vet. Code § 467; Drainage District Act of 1903 (1903 Cal. Stat. ch. 238), § 4.

13. Statutory references to the justice court office of constable are likewise corrected in the proposed law.

14. Some statutory references to justice courts appear to have continued importance notwithstanding the elimination of the justice courts, particularly statutes governing the retirement benefits of retired justice court judges. See, e.g., Gov't Code §§ 22754.3, 22754.35, 22825.2, 71001, 73438, 73606, 73647,

County-Specific Statutes

This recommendation proposes only revisions of the laws of the state relating to the courts generally. It does not propose revisions of the special statutes relating to the courts in a particular county.¹⁵ If the courts in a particular county elect to unify, the codes should be reviewed at that time to determine whether the special statutes relating to the courts in that county should be revised or repealed.¹⁶

Employment Statutes

Municipal court employment statutes constitute the great bulk of county-specific statutes.¹⁷ The California Constitution requires the Legislature to prescribe for each municipal court the number, qualifications, and compensation of judges, officers, and employees.¹⁸ The Law Revision Commission's recommendation does not attempt to address these highly specific statutes. In the event of unification of the courts in a

73698.3, 73699.2, 73799, 74131.1, 74608, 74747, 74867, 74926, 74958, 75002, 75076.2.

Other references to justice courts appear in statutes that may be obsolete. See, e.g., Code Civ. Proc. §§ 221, 1012.5. Rather than suggesting technical amendments in statutes that are most likely obsolete, the Commission recommends that these statutes be left unamended for now, pending a study of whether they should be repealed completely. See discussion of "Issues in Judicial Administration Appropriate for Future Study" *infra*.

Still other references to justice courts appear in county-specific statutes. See, e.g., Gov't Code § 70111. This recommendation does not propose revisions of county-specific statutes. See discussion of "County-Specific Statutes" *infra*.

15. See, e.g., Bus. & Prof. Code § 6301.1 (board of law library trustees of San Diego County); Code Civ. Proc. §§ 199.2 (Placer County jurors), 199.3 (Nevada County jurors), 200 (Alameda and Los Angeles County municipal court jurors); Gov't Code §§ 26826.1 (Riverside County filing fee surcharge), 69640-69650 (Los Angeles County superior court districts).

16. The draft legislation includes a provision that general statutes governing unification of the courts prevail over inconsistent county-specific statutes. See proposed Gov't Code § 70215 (county-specific legislation).

17. Gov't Code §§ 72000-74991.

18. Cal. Const. art. VI, § 5(c).

county, the Legislature must examine the statutes and determine whether and to what extent they are to be preserved.¹⁹

UNIFICATION PROCEDURE

Under SCA 4 the municipal and superior courts in a county are unified on a vote of a majority of the municipal court judges and a majority of the superior court judges in that county.²⁰ The recommended legislation includes a unification voting procedure.²¹

Unless an earlier date is specified in the unification vote, unification occurs 180 days following certification of the vote for unification.²² Once unification has been approved, it may not be rescinded.²³

19. See discussion of “Employment Issues” *infra*.

20. Cal. Const. art. VI, § 5(e).

21. Gov’t Code § 70200 *et seq.* SCA 4 gives the Legislature broad authority to implement unification. Cal. Const. art. VI, § 23(a) (purpose of SCA 4 “to permit the Legislature to provide for the abolition of the municipal courts and unify their operations within the superior courts”).

A voting procedure recommended by the Commission was removed from Senate Bill 2139 (Lockyer), but is included in the proposed legislation *infra*. Judicial Council rules for the conduct of a vote preserve the effect of this provision. This procedure allows for a vote call on application of the presiding superior court judge or all of the presiding municipal court judges in a county, or on application of a majority of the superior court judges or a majority of the municipal court judges in a county. Proposed Gov’t Code § 70200.5(a). The vote is conducted by the Judicial Council or the county’s registrar of voters (proposed Gov’t Code § 70200(b)), and all judges serving at the time the vote is taken are eligible to vote (proposed Gov’t Code § 70200.5(c)). The vote to unify may be by unanimous written consent of all the judges in the county. Proposed Gov’t Code § 70200.5(e).

22. Proposed Gov’t Code § 70202.

23. Proposed Gov’t Code § 70201(c).

CIVIL PROCEDURE

Distinguishing Between Civil Causes

On unification of the trial courts in a county, all causes will be within the original jurisdiction of the superior court.²⁴ Differentiating among superior court causes will be necessary, however, to preserve filing fees, economic litigation procedures, local appeals, and other significant procedural distinctions for matters that traditionally have been within the municipal court's jurisdiction. If instead all causes in a unified court were treated in the same manner as traditional superior court causes, there would be disparity of treatment between a party appearing in a municipal court and a similarly situated party appearing in a unified superior court. The latter approach may also be impractical for a number of reasons, including limited trial and appellate court resources.

The statutes could differentiate among civil causes simply by referring to causes that would be within the jurisdiction of the municipal court if the courts in a county had not unified. But this approach is predicated on the assumption that municipal courts in some counties will exist indefinitely. The approach also makes it necessary to refer to statutes applicable in another county to determine jurisdiction issues in a county in which the courts have unified. In the long run, all courts may be unified, at which time further statutory revision would be necessary.

A preferable approach is to identify causes that are traditionally within the municipal court jurisdiction and deal with them directly. In the proposed law, these matters are listed in new Section 85 of the Code of Civil Procedure and are identified as "limited civil cases." In a county in which the courts have not unified, the municipal court has jurisdiction of limited civil cases. In a county in which the courts have unified,

24. Cal. Const. art. VI, § 10.

the superior court has original jurisdiction of limited civil cases, but these cases are governed by economic litigation procedures, local appeal, filing fees, and the other procedural distinctions that characterize these cases in a municipal court.

Although the proposed legislation would preserve these procedural distinctions intact, they warrant reexamination as unification progresses. Adjustments may be appropriate to eliminate unnecessary rigidity and improve the court system.²⁵

Misclassification of Civil Cases in a Unified Court

To facilitate differentiation among civil cases, the proposed law would require that in a unified superior court a litigant in a limited civil case must identify it as such in the caption of the complaint, cross-complaint, petition, or other initial pleading. Where a caption erroneously states or fails to state that the matter is a limited civil case, the case may be reclassified on motion of a party or on the court's own motion.²⁶

Judicial Arbitration

Judicial arbitration of cases where the amount in controversy is \$50,000 or less is mandatory in a superior court with 10 or more judges and permissive in a superior court with fewer than 10 judges.²⁷ Because unification will increase the number of superior court judges in a county, the proposed law would apply these provisions to a unified superior court with eighteen or more judges. This will preserve judicial arbitration in all courts where it is currently applicable.²⁸

25. See discussion of "Issues in Judicial Administration Appropriate for Future Study" *infra*.

26. Proposed Code Civ. Proc. §§ 395.9, 399.5, 400.

27. Code Civ. Proc. § 1141.1.

28. Monterey County would also be subject to these judicial arbitration provisions. There are currently eight superior court judges and 10 municipal court judges in Monterey County.

Small Claims Sessions

Each small claims division of a municipal court with four or more judicial officers must conduct at least one night session or Saturday session each month.²⁹ The proposed law would apply this requirement to a seven-judge unified superior court. This will preserve the special small claims session requirements in all courts currently subject to them.³⁰

Increase in Jurisdictional Amounts

A number of statutes in the Food and Agricultural Code, enacted in 1967, give the municipal court jurisdiction where the amount in controversy does not exceed \$5,000.³¹ This was the jurisdictional limit of the municipal court in civil cases at that time. During the past 30 years the jurisdictional limit of the municipal court in civil cases has increased to \$25,000,³² but the statutes in the Food and Agricultural Code have not been adjusted. The proposed law increases the amounts in those statutes to \$25,000, consistent with the contemporary civil jurisdictional limit of the municipal court.

CRIMINAL PROCEDURE

Distinguishing Between Criminal Causes

On unification of the trial courts in a county, all criminal causes, including misdemeanors and infractions as well as felonies, will fall within the original jurisdiction of the superior court.³³ Many criminal procedure statutes, however, are not phrased in terms of felonies, misdemeanors, or

29. Code Civ. Proc. § 116.250(b).

30. Proposed Code Civ. Proc. § 116.250(b). Butte County would also be subject to these requirements. That county currently has four municipal court judges, but they are divided between two judicial districts.

31. See Food & Agric. Code §§ 7581, 12647, 27601, 53564. See also Food & Agric. Code § 52514 (\$3,000 limit).

32. Code Civ. Proc. § 86.

33. Cal. Const. art. VI, § 10.

infractions, but rather in terms of the original trial jurisdiction of superior and municipal courts.

The proposed law revises the criminal procedure statutes to accommodate the possibility of unification by replacing references to matters within the original jurisdiction of the superior court with references to felonies,³⁴ and by replacing references to matters within the original jurisdiction of the municipal court with references to misdemeanors and infractions.³⁵

The original jurisdiction of the superior court currently includes some matters that are not felonies. Specifically:

- A misdemeanor or infraction charge may be joined with a felony charge, and thus remain within the superior court's original jurisdiction. The proposed law makes clear that a felony case may include joined misdemeanor and infraction charges.³⁶
- The superior court's juvenile court jurisdiction is non-criminal.³⁷ The proposed law eliminates from the Penal Code references to the superior court's juvenile court jurisdiction that imply it may be criminal or otherwise governed by the Penal Code.³⁸

34. See, e.g., proposed Penal Code §§ 682, 737, 806, 813, 827, 859.

35. See, e.g., proposed Penal Code §§ 691, 740, 804, 829.

36. Proposed Penal Code § 691.

37. Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See Welf. & Inst. Code §§ 203 (juvenile court proceedings noncriminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

38. See proposed Penal Code §§ 682, 737, 860, 1462. In this connection the proposed law also adjusts Penal Code Section 949, which implies that a violation of Penal Code Section 272 (misdemeanor contributing to delinquency of a minor) is within the jurisdiction of the superior court. This is a relic of an era when that crime was within the non-felony juvenile court jurisdiction of the superior court. Cf. 2 B. Witkin & N. Epstein, *California Criminal Law Crimes Against Decency and Morals* § 836, at 951-52 (2d ed. 1989); 4 *id.*, *Jurisdiction and Venue* § 1838, at 2176-77.

- The superior court's Penal Code jurisdiction includes proceedings for expungement of an arrest record.³⁹ These proceedings are noncriminal in character; the proposed law clarifies the appeal path for these proceedings.
- Proceedings under the Government Code for removal of a local public official from office for willful or corrupt misconduct in office are quasi-criminal in nature.⁴⁰ The proposed law adjusts references to these proceedings found in the Penal Code⁴¹ and clarifies the appeal path for these proceedings.⁴²

Review of Ruling or Order of Municipal Court Judge

Some criminal procedures call for a preliminary decision by a municipal court judge, followed by superior court review.⁴³ This dual system requires revision in a county in which the courts have unified.

Under SCA 4, in a county in which the courts have unified, Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge are to be performed by a superior court judge other than the superior court judge who originally made the ruling or order.⁴⁴ This scheme is maintained in the proposed law.⁴⁵

Amendment of Section 1538.5

Penal Code Section 1538.5 provides for a motion to suppress evidence on a number of grounds, including "violation of state constitutional standards."⁴⁶ Proposition 8, the Vic-

39. Penal Code § 851.8.

40. Gov't Code § 3060 *et seq.*

41. Penal Code §§ 737, 860.

42. Proposed Gov't Code § 3075.

43. See, e.g., Penal Code §§ 995, 1538.5.

44. Cal. Const. art. VI, § 23(c)(7).

45. See proposed Penal Code § 859c.

46. Penal Code § 1538.5(a)(2).

tims' Bill of Rights, includes a provision that "relevant evidence shall not be excluded in any criminal proceeding" except as provided by statute thereafter enacted by a two-thirds vote of the Legislature.⁴⁷ Amendment of Section 1538.5 to adjust for trial court unification is not intended to override Proposition 8, but only to preserve the status quo.⁴⁸ Disclamatory language to this effect is included in the Comment to the amendment of Section 1538.5.

Business Hours for Bail Purposes

The municipal court clerk or other court personnel must be available at all hours for the purpose of fixing and accepting bail for misdemeanor arrestees⁴⁹ and must also accept bail in felony arrests.⁵⁰ The proposed law maintains these functions in the superior court in a county in which there is no municipal court.

Authority of City Prosecutor

The city attorney of a city in which a misdemeanor is committed may prosecute the misdemeanor in the municipal court district in which the city is located.⁵¹ The proposed law provides that if there is no municipal court in a county, the city attorney may prosecute such misdemeanors in the superior court.⁵²

47. Cal. Const. art. I, § 28(d).

48. *Cf. People v. Daan*, 161 Cal. App. 3d 22, 207 Cal. Rptr. 228 (1984) (amendments to Penal Code Section 1538.5 did not restore pre-Proposition 8 exclusionary rules).

49. Gov't Code § 72301.

50. Gov't Code § 72302.

51. Gov't Code § 72193; see also Gov't Code § 41083.5 (prosecution of misdemeanor with the consent of district attorney).

52. There is precedent for this approach in prior court consolidations. See Gov't Code § 71099.

JUDICIAL DISTRICTS

Judicial Districts in Unified Counties

Statutes refer to “judicial districts” for various purposes. The references generally intend the “municipal court district” in a county.⁵³ On unification of the municipal and superior courts in a county, the former municipal court districts have little relevance for most purposes. The proposed law treats statutory references to judicial districts as references to the county if there is no municipal court in the county.⁵⁴ Exceptions to this rule,⁵⁵ and circumstances where application of the rule could result in a significant change, are noted in Comments following relevant provisions in the proposed law.

Court Sessions

Superior court judges have authority to hold sessions at any place where a municipal court holds sessions within the county.⁵⁶ The authority of the judges to hold sessions at locations remote from regularly scheduled sessions should be continued in a county in which the courts have unified despite the absence of municipal court districts, provided adequate facilities exist for that purpose. On unification, preexisting municipal court locations become superior court locations.⁵⁷ The proposed law preserves the authority of a majority of the

53. See, e.g., Elec. Code § 325. There appear to be only two instances in the codes where “judicial district” might have been intended to mean “superior court district” (see Food & Agric. Code § 31622; Ins. Code § 11542.2), and one where “judicial district” means “court of appeal district” (see Pub. Util. Code § 1756). While the California Constitution does refer to “municipal court districts,” it does not equate them with “judicial districts.”

54. See proposed Code Civ. Proc. § 38.

55. See, e.g., Gov’t Code §§ 69744.5, 69746.5 (superior court sessions). See also discussions of “Publication in Former Municipal Court Districts” and “Judicial Districts in Los Angeles County” *infra*.

56. Gov’t Code § 69510.

57. Cal. Const. art. VI, § 23(c)(2); proposed Gov’t Code § 70212(b).

judges of a unified superior court to order sessions held at any place where there is a court facility.

Venue

In specified circumstances, existing law allows transfer of a case from one municipal court to another municipal court in the same county.⁵⁸ In a county with a unified superior court, there are no municipal court districts; the proposed law would preserve the ability of the court to transfer a case from one location to another location within the county.⁵⁹

Jury Venire

The general policy of the state is that juries are selected from the population of the “area served by the court.”⁶⁰ Historically, this has meant that superior court juries are selected from the county and municipal court juries from the municipal court district. This concept has changed in recent years — superior courts may draw from the judicial district in which a particular session is located,⁶¹ and municipal courts may draw from the superior court pool.⁶²

Statistics on the frequency with which the superior courts use municipal court jury pools are not available. However, a survey conducted by the Judicial Council reveals that a substantial number of municipal courts use the superior court pool.

The proposed law maintains the existing flexibility enabling a court to draw a jury from the area served by it. After unifi-

58. Code Civ. Proc. §§ 392, 393, 395; Penal Code §§ 1034, 1035.

59. Proposed Code Civ. Proc. § 402.5; proposed Penal Code § 1038.

60. Code Civ. Proc. §§ 190, 197.

61. Code Civ. Proc. § 198.5.

62. Code Civ. Proc. § 200.

cation, the court will have sufficient authority to continue the practice most appropriate for that county.⁶³

Publication in Former Municipal Court Districts

The general rule that judicial districts are countywide in a county in which the courts have unified is subject to a significant exception for legal publication requirements. Under existing law, if the municipal courts in a county consolidate, the former municipal court districts are preserved for purposes of publication.⁶⁴ The proposed law applies the same principle if the municipal courts in a county unify with the superior court.

Judicial Districts in Los Angeles County

Los Angeles is the only county that has superior court districts.⁶⁵ In Los Angeles County it is not clear whether existing statutory references to “judicial districts” mean superior court districts or municipal court districts. If the municipal and superior courts in Los Angeles County unify, the statutes probably would be construed to refer to superior court districts.⁶⁶ In that event, statutes that refer to judicial districts should be reviewed for propriety of operation.⁶⁷

63. As a technical matter, the proposed law revises Code of Civil Procedure Section 198.5 to refer to the area in which a session is held, rather than the municipal court district, in a county in which the courts have unified.

64. Gov’t Code § 71042.5 (preservation of judicial districts for purpose of publication).

65. See Gov’t Code §§ 69640-69650 (board of supervisors may divide county into 12 or fewer superior court districts).

66. As a general rule, the proposed law treats statutory references to judicial districts as references to the county if there is no municipal court in the county. See discussion of “Judicial Districts in Unified Counties” *supra*; proposed Code Civ. Proc. § 38.

67. The statute on Los Angeles County superior court districts is one of many county-specific statutes that will need to be reviewed if the Los Angeles County courts unify. See discussion of “County-Specific Statutes” *supra*.

APPEALS UNDER SCA 4

Appellate Jurisdiction of Court of Appeal

SCA 4 provides that the courts of appeal have appellate jurisdiction when superior courts have original jurisdiction “in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995” and in other causes prescribed by statute.⁶⁸ The effect of this provision is to perpetuate court of appeal jurisdiction as it existed on June 30, 1995, but allow for statutory expansion of court of appeal jurisdiction.

The provision presents a number of challenges, such as ascertaining what it means to be a cause “of a type” within court of appeal jurisdiction, keeping the legal community aware of the historical jurisdiction of the court of appeal, and dealing with pending appeals on the operative date of SCA 4 in causes of a type not within the appellate jurisdiction of the court of appeal on June 30, 1995.

The proposed law resolves these issues through a statutory grant of appellate jurisdiction to the court of appeal in cases within the original jurisdiction of the superior court, excluding limited civil cases (cases historically within the original jurisdiction of the municipal courts) and misdemeanor and infraction criminal cases. Statutory expansion of court of appeal jurisdiction is allowed under SCA 4,⁶⁹ and provides a ready means of determining the extent of the appellate jurisdiction of the court of appeal. The statutory grant of jurisdiction is also consistent with the intent of SCA 4: to preserve the appellate jurisdiction of the court of appeal in cases historically within the original jurisdiction of the superior court.

68. Cal. Const. art. VI, § 11(a).

69. Cal. Const. art. VI, § 11(a) (“and in other causes prescribed by statute”).

Appellate Division of Superior Court

Creation of appellate division. SCA 4 creates an appellate division in each superior court.⁷⁰ The appellate division is similar to the existing appellate department, but is intended to have greater autonomy so that it can exercise a true review function in a unified superior court.⁷¹ SCA 4 creates appellate divisions in all superior courts, regardless of whether the trial courts in the county have unified.

Appellate jurisdiction of appellate division. Under prior law, the appellate jurisdiction of the superior court was defined in terms of causes “that arise in municipal courts in their counties.”⁷² SCA 4 deleted this provision, simply leaving the appellate jurisdiction of superior courts to statute.⁷³ The proposed law would make clear that the appellate jurisdiction of the appellate division covers limited civil cases and misdemeanor and infraction cases — causes traditionally within the original jurisdiction of municipal courts — regardless of whether the courts in a county have unified.

Appointments to appellate division. SCA 4 requires the Chief Justice to assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence of the appellate division.⁷⁴ The provision

requires adoption of court rules intended to foster independence of judges serving in the appellate division. Rules may set forth relevant factors to be used in making appointments to the appellate division, such as length of

70. Cal. Const. art. VI, § 4.

71. Assignments to the appellate division are made by the Chief Justice for specified terms and pursuant to rules (not inconsistent with statute) adopted by the Judicial Council to promote the independence of the appellate division. *Id.*

72. Former Cal. Const. art. VI, § 11.

73. Cal. Const. art. VI, § 11(b).

74. Cal. Const. art. VI, § 4.

service as a judge, reputation within the unified court, and degree of separateness of the appellate division workload from the judge's regular assignments (e.g., a superior court judge who routinely handles large numbers of misdemeanors might ordinarily not serve in the appellate division). Review by a panel of judges might include judges assigned from another county in appropriate circumstances, or even by a panel of appellate division judges from different superior courts who sit in turn in each of the superior courts in the "circuit."⁷⁵

To effectuate this intent, the proposed law does not attempt to specify terms or conditions, but leaves the Judicial Council freedom to adopt appropriate rules and leaves the Chief Justice broad discretion in making appointments.

Small Claims

The current appeal route for a small claim is a new trial in the superior court, a court of higher jurisdiction.⁷⁶ Upon unification of the municipal and superior courts in a county, the superior court will include the small claims division and will not be a court of higher jurisdiction. SCA 4 addresses this matter by providing for a rehearing in the superior court by a judge other than the judge who originally heard the case.⁷⁷ The proposed law preserves the scheme of SCA 4: a hearing before a new judicial officer, with legal representation,⁷⁸ is a sufficient review opportunity for the litigants without being a substantial burden on judicial resources.

75. *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1, 77 (1994).

76. Code Civ. Proc. §§ 116.710, 116.770.

77. This rule is subject to overriding statutes. Cal. Const. art. VI, § 23(c)(6).

78. Code Civ. Proc. § 116.770(c).

EMPLOYMENT ISSUES

Employment issues are among the most difficult matters to resolve in unifying the municipal and superior courts in a county. Hundreds of statutes in the Government Code specify employees' salaries, benefits, privileges, and so forth, in every municipal court district in the state. Bargaining rights, salary parity, seniority, and other issues must be addressed in each court that unifies. The proposed legislation does not attempt to deal with these issues.⁷⁹ Because the statutes governing court employment in each judicial district are unique, it is not possible to generalize as to the effect of unification on salaries and other employment matters.

Recent legislation addresses employee rights⁸⁰ and establishes a mechanism for rationalizing the system — the Task Force on Trial Court Employees.⁸¹ It is likely, however, that immediate problems will be triggered by unification and will need to be statutorily addressed on an urgency basis before the Task Force is able to complete its work.

Continued Employment of Existing Court Employees

SCA 4 continues existing employees in a county in which the courts have unified, until the Legislature provides otherwise.⁸² The proposed law provides that the courts in a county in which the courts have unified will develop and adopt a personnel plan.⁸³ These general transitional provisions are not completely adequate, however, and in any event, existing statutes governing court employees in an individual county

79. See discussion of "County-Specific Statutes" *supra*.

80. See 1997 Cal. Stat. ch. 850.

81. Gov't Code §§ 77600-77606.

82. See Cal. Const. art. VI, § 23(c)(1).

83. See proposed Gov't Code § 70210(d). The provision parallels Rule of Court 205(11).

will need to be cleaned up by the Legislature on a case-by-case basis as unification occurs.

Court Reporters

Among the county-specific statutes that must be harmonized in a county in which the courts unify are those governing appointment and compensation of municipal court reporters, and regulating their fees.⁸⁴ This is an appropriate matter for review by the Task Force on Trial Court Employees.

Subordinate Judicial Officers

Municipal court personnel who become superior court personnel on unification include subordinate judicial officers.⁸⁵ Existing law provides authority to the municipal courts to appoint a number of subordinate judicial officers, such as court commissioners and referees.⁸⁶ The proposed law preserves the existing municipal court authority in a unified superior court.⁸⁷ While this will work as an interim measure, ultimately the Legislature should address the use of subordinate judicial officers in a county in which the courts have unified.⁸⁸

Salaries of some municipal court officers are based on salaries of municipal court judges.⁸⁹ This statutory scheme will function adequately as long as municipal courts remain, but if the courts in all counties unify, there will be no municipal court judge salaries to serve as a benchmark. This matter

84. See generally Gov't Code §§ 72195, 72600-74997 (statutes governing organization of municipal courts).

85. See proposed Gov't Code § 70212(a) & Comment.

86. See, e.g., Gov't Code §§ 72400 (traffic referees), 72450 (traffic trial commissioners).

87. Proposed Gov't Code § 70214.

88. See discussion of "Issues in Judicial Administration Appropriate for Future Study" *infra*.

89. See, e.g., Gov't Code §§ 72404, 72406, 72450.

should be referred to the Task Force on Trial Court Employees.

Judges' Salaries

While it is not possible to generalize on the consequences of unification for court employee salaries (due to county-specific statutes governing these matters), it is possible to generalize on the consequences of unification for judicial salaries. Judges' salaries are set by general statute,⁹⁰ with a statutory escalator clause.⁹¹ Currently superior court judges earn \$107,390 and municipal court judges earn \$98,070. On unification, municipal court judges become superior court judges⁹² and are compensated as superior court judges.

Judges' Retirement

Provisions of the Judges' Retirement Law are keyed to salaries currently being paid to judges of the same rank.⁹³ For example, a retired judge may receive a retirement allowance equal to 65 percent of "the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last elected or appointed."⁹⁴ In the case of a retired municipal court judge, this system will become problematic if as a result of unification there no longer exists a municipal court judgeship to serve as a basis for determining the retirement allowance.

90. Gov't Code § 68202.

91. Gov't Code § 68203.

92. Cal. Const. art. VI, § 23(b).

93. This does not apply to the Judges' Retirement System II, applicable to persons who first become judges on or after November 9, 1994. Under that system, retirement payments are based on a percentage of salary at retirement, augmented by a cost of living escalator. Payments are not based on a percentage of salary of currently serving judges in the same class.

94. Gov't Code § 75076.

The Commission believes the matter requires prompt attention. As a result of incentives to unify,⁹⁵ unification under SCA 4 may occur sooner rather than later, with the consequence of an immediate loss of the basis for determining municipal court retirement allowances. The Commission has alerted the Judicial Council and the Public Employees Retirement System to the urgency of this matter. It should be addressed promptly by statute.

JUDICIAL ELECTIONS

SCA 4 provides that on unification, the “term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court.”⁹⁶ The impact of this provision on judicial elections in a unified court is unclear, since different rules govern the timing of municipal court elections and superior court elections.

For example, if a judge is appointed to fill a vacancy in the municipal court, the judge serves out the remainder of the unexpired term for which the judge was appointed, and an election for a successor is held at the general election preceding the end of the term.⁹⁷ If the vacancy occurs within 10 months before that election, however, this rule does not apply. Instead, the judge continues to hold office until the next succeeding general election.⁹⁸

95. See, e.g., Gov’t Code §§ 69620, 77202, 77213.

96. Cal. Const. art. VI, § 23(b). This provision would apply to a municipal court appointee as well as to an elected municipal court judge. See *Trial Court Unification: Constitutional Revision (SCA 3)*, *supra* note 7, at 82. See also *Lungren v. Davis*, 234 Cal. App. 3d 806, 822, 285 Cal. Rptr. 777 (1991).

97. Gov’t Code § 71145.

98. Gov’t Code § 71180(a); *see also* *Donnellan v. Hite*, 139 Cal. App. 2d 43, 293 P.2d 158 (1956); *Campbell v. Hite*, 57 Cal. 2d 484, 369 P.2d 944, 20 Cal. Rptr. 328 (1962); *Brailsford v. Blue*, 57 Cal. 2d 335, 369 P.2d 13, 19 Cal. Rptr. 485 (1962).

In contrast, a judge appointed to fill a vacancy in the superior court does not serve out the remainder of an elected predecessor's six-year term. An election for a successor is held at the general election following the second January 1 following the vacancy.⁹⁹

The proposed legislation would provide guidance concerning which rule applies in a unified court:¹⁰⁰

The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court. A previously selected municipal court judge is entitled to hold office for the same time period as if the judge had remained a judge of the municipal court. Until a previously selected municipal court judge leaves office or a successor is elected and qualifies, the time for election of a successor is governed by the law otherwise applicable to selection of a municipal court judge. Thereafter, selection of a successor to the office is governed by the law governing selection of a superior court judge.¹⁰¹

Thus, if a municipal court judge appointed to fill a vacancy is serving at the time unification occurs, the municipal court rules on election timing would continue to apply. The judge would serve out the remainder of the term, with an election held at the general election preceding the end of the term (unless that would occur within 10 months after the vacancy, in which case the election would be held at the next succeeding general election).¹⁰² Thereafter, the ordinary superior court rules on election timing would apply.

99. Cal. Const. art. VI, § 16(b), (c).

100. SCA 4 gives the Legislature broad authority to implement unification. Cal. Const. art. VI, § 23(a) (purpose of SCA 4 is to permit the Legislature to provide for unification, including broad legislative authority).

101. Proposed Gov't Code § 70211(b).

102. These rules for the first election following unification apply only so long as the municipal court judge holding office at the time of unification continues in that office, consistent with the constitutional mandate that the term of that judge is not affected by unification. If the judge leaves office before the end of the

The proposed legislation would also provide guidance on how unification affects an ongoing municipal court election.¹⁰³ If unification occurs during such an election,¹⁰⁴ the election would proceed as originally planned, promoting an orderly transition to unification.¹⁰⁵ The winner of the election would be deemed “previously selected” for purposes of SCA 4, and would become a superior court judge through unification.¹⁰⁶

OTHER TRIAL COURT UNIFICATION ISSUES

Electronic Reporting

Existing law, while generally requiring stenographic court reporting, authorizes electronic reporting in municipal courts in some circumstances.¹⁰⁷ The proposed law preserves the ability of the court to use electronic reporting in similar circumstances where the municipal and superior courts in a county have unified.

Trial Setting Conferences

If the municipal and superior courts in a county unify, statutes providing for telephonic trial setting conferences in superior court will also apply to cases formerly within the

term, the office is thereafter treated as an ordinary superior court judgeship and is subject to the superior court rules on election timing.

103. Proposed Gov’t Code § 70216.

104. “During a municipal court election” means between the 127th day before a direct primary election and the day of the general election. Proposed Gov’t Code § 70216(c); see Elec. Code §§ 8020 (nomination documents “shall first be available on the 113th day prior to the direct primary election”), 8022 (declaration of intention to become a candidate shall be filed “not more than 14 nor less than five days prior to the first day on which nomination papers may be presented for filing”).

105. Cal. Const. art. VI, § 23(a).

106. Cal. Const. art. VI, § 23(b); proposed Gov’t Code § 70216(b).

107. See Gov’t Code § 72194.5.

jurisdiction of the municipal court.¹⁰⁸ This result is appropriate; it will be neither practical nor desirable to distinguish among cases for this purpose in a unified court. The proposed legislation leaves existing statutes on this point intact.

Transitional Issues

On the operative date of unification in a county there will be causes pending in the municipal court as well as new causes that are statutorily within the jurisdiction of the municipal court. SCA 4 includes transitional provisions that address these matters.¹⁰⁹ The proposed law covers transitional problems not dealt with directly in SCA 4, and also makes the constitutional transitional provisions more accessible to attorneys and others by repeating them in statutes.¹¹⁰

ISSUES IN JUDICIAL ADMINISTRATION APPROPRIATE FOR FUTURE STUDY

In the process of preparing proposed statutory revisions to implement trial court unification, the Commission has identified a number of issues that are appropriate for future study. In particular, although the implementing legislation would preserve existing procedural distinctions between traditional superior court cases, traditional municipal court cases, and small claims cases, the Commission strongly recommends that the Legislature direct a study reexamining this three-track system and its underlying policies in light of unification. Such a study may entail elimination of unnecessary procedural distinctions,¹¹¹ reassessment of the jurisdictional limits for small

108. Code Civ. Proc. § 575.6; Gov't Code § 68070.1.

109. Cal. Const. art. VI, § 23(c)(4)-(5).

110. See proposed Gov't Code §§ 70210-70216.

111. For example, there are differences in the extent to which municipal and superior courts may set terms and conditions for payment of money judgments. *Compare* Code Civ. Proc. § 85 (municipal court has broad discretion to set terms

claims procedures¹¹² and economic litigation procedures,¹¹³ and reevaluation of which procedures apply to which type of case.¹¹⁴ Organizations with expertise suitable for conducting the proposed study include the Judicial Council and the Law Revision Commission. A joint study and report is advisable.

The Commission has also identified a number of narrower issues in judicial administration that should be studied. The Commission recommends that the Legislature direct the Judicial Council or the Law Revision Commission, to conduct these studies as indicated below.¹¹⁵ The Judicial Council and Law Revision Commission should consult with each other on these studies. Joint reports may be appropriate in some circumstances.

and conditions) *with* Code Civ. Proc. § 667.7 (superior court may enter judgment for periodic payments in certain circumstances in actions for injury or damages against health care providers). This topic should be examined as part of the proposed study of procedural distinctions between traditional superior court cases, traditional municipal court cases, and small claims cases.

112. The existing limit is \$5,000. Code Civ. Proc. § 116.220.

113. The existing limit is \$25,000. Code Civ. Proc. § 91.

114. For example, some provisions appear to give municipal and superior courts concurrent jurisdiction. See, e.g., Bus. & Prof. Code §§ 6405, 22391, 22443.1, 22455; Civ. Code §§ 1789.24, 1812.66, 1812.105, 1812.503, 1812.510, 1812.515, 1812.525, 1812.600; Code Civ. Proc. § 688.010; Food & Agric. Code §§ 25564, 29733, 43039, 59289; Health & Safety Code §§ 108580, 111880, 111895; Veh. Code §§ 11102.1, 11203, 11301.5, 11710.2.

115. The Judicial Council's constitutional mandate includes making recommendations to the courts, Governor, and Legislature, and adopting rules for court administration, practice, and procedure, to improve the administration of justice. Cal. Const. art. VI, § 6.

The Law Revision Commission's statutory mandate includes making recommendations to the Governor and Legislature for changes in the law necessary to modify or eliminate antiquated and inequitable rules of law, and to bring the law of the state into harmony with modern conditions. Gov't Code § 8289.

In the course of preparing implementing legislation for trial court unification, the Judicial Council and Law Revision Commission have developed background information on these topics. The Council and the Commission have existing study mechanisms in place, without the need to establish new committees or procedures for these studies.

Studies for which the Judicial Council should be assigned primary responsibility include:

- Obsolete statutes relating to prior court and personnel restructurings.¹¹⁶
- Superior court sessions, both general and special.¹¹⁷
- Number of authorized commissioners and referees in a county in which the courts have unified.¹¹⁸
- Reorganization of statutes governing court fees.¹¹⁹
- Eligibility of judges to serve on the small claims advisory committee.¹²⁰
- Catalogue of cases within the appellate jurisdiction of the courts of appeal on June 30, 1995.¹²¹
- Consolidation of jury commissioner functions for the courts in each county.
- Magistrate as judicial officer of the state or judicial officer of a particular court.

116. See, e.g., Gov't Code §§ 71003, 71040.5.

117. See, e.g., Gov't Code §§ 69510, 69510.5, 69510.6, 69740-69801.

118. The trial court unification transitional provisions would merely preserve existing authority to appoint commissioners and referees. *Cf.* Gov't Code §§ 70141 *et seq.* (existing authority to appoint superior court commissioners), 72000-74991 (existing authority to appoint municipal court commissioners found among county-specific statutes in the Government Code governing municipal courts), 72400 (existing authority to appoint municipal court traffic trial commissioners).

119. Existing statutes governing court fees are organized by court rather than by cause. See, e.g., Gov't Code §§ 26800 *et seq.* (fees collected by county clerk), 72055 *et seq.* (municipal court fees). It may be appropriate to consolidate the fee provisions for ease of use. In addition, it may be appropriate to replace provisions for collection of fees by the county clerk with provisions relating to the court executive officer.

120. See Code Civ. Proc. § 116.950(d), which could be broadened to allow any judge with extensive experience as a small claims judge (including a retired judge, an appellate court justice, or a judge of a non-unified superior court) to serve on the committee.

121. See Cal. Const. art. VI, § 11, which may make it worthwhile to construct such a catalogue.

- Correction of county-specific statutes after unification in that county.¹²²
- Reexamination of the statutes governing jury selection.¹²³

Studies for which the Law Revision Commission should be assigned primary responsibility include:

- Obsolete statutes relating to expired pilot projects or other expired programs.¹²⁴
- Whether to conform the statutory provisions on circumstances for appointment of a receiver.¹²⁵
- Procedure for good faith improver claims.¹²⁶
- Procedure for obtaining a stay of a mechanic's lien foreclosure action pending arbitration.¹²⁷
- Clarification of provisions relating to obtaining counsel for a defendant in a criminal case.¹²⁸

122. See discussion of "County-Specific Statutes" *supra*.

123. Code Civ. Proc. §§ 190-239. This study may include points such as whether to make revisions regarding countywide jury selection at the county seat (Code Civ. Proc. § 198.5) and whether to require the Department of Motor Vehicles to cull noncitizens from juror source lists (Code Civ. Proc. §§ 197, 203(a)(1)).

124. See, e.g., Code Civ. Proc. §§ 221, 1012.5; Gov't Code § 68520.

125. Compare Code Civ. Proc. § 86(a)(8) (appointment of receiver in municipal court) with Code Civ. Proc. § 564 (appointment of receiver in superior court). See also Code Civ. Proc. §§ 708.610-708.630, 712.060.

126. An action by a good faith improver is within the traditional jurisdiction of the superior court, but a cross-complaint under \$25,000 by a good faith improver is heard in the municipal court. Code Civ. Proc. § 871.3. This differential treatment may be inappropriate.

127. Code Civ. Proc. § 1281.5. It may be appropriate to clarify or simplify the procedure for obtaining a stay in superior court for arbitration of a municipal court lien foreclosure action.

128. Penal Code Sections 859, 859a, 859b, and 860 relate to obtaining counsel for defendants in criminal cases. The statutes appear to be somewhat dated, and their interrelation is unclear. A clearer statutory statement of the governing rules may be appropriate.

- Role of court reporter in a county in which the courts have unified, particularly in a criminal case.¹²⁹
- Appealability of order of recusal in a criminal case.¹³⁰
- Publication of legal notice in a county with a unified superior court.¹³¹
- Resolving the numbering conflict in the two Chapters 2.1 (commencing with Section 68650) of Title 8 of the Government Code.
- Default in an unlawful detainer case.¹³²
- Whether to make revisions regarding the repository for the duplicate of an affidavit pursuant to Fish and Game Code Section 2357.¹³³

129. Existing statutes governing functions of court reporters may be problematic as applied in a county in which the courts have unified, particularly in criminal cases. *Cf.* Code Civ. Proc. § 274c; Gov't Code § 72194.5; Penal Code § 869.

130. *Compare* Penal Code § 1466(a)(1)(A) (in a misdemeanor or infraction case an appeal may be taken from “an order recusing the district attorney or city attorney pursuant to Section 1424”) *with* Penal Code § 1238 (comparable provision for a felony case, but no mention of an appeal from an order recusing the district attorney or city attorney).

131. See proposed Gov't Code § 71042.5, which would preserve former municipal court districts for purposes of publication, but may be unsatisfactory in the long-term because it would not account for changing demographics.

132. See Code Civ. Proc. § 1167.3, which contains incorrect cross-references.

133. Is a notary a proper repository, and does this provision serve a useful function?

APPENDIX: TEXT OF SCA 4

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1995-96 Regular Session commencing on the fifth day of December, 1994, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First — That Section 16 of Article I thereof is amended to read:

SEC. 16. Trial by jury is an inviolate right and shall be secured to all, but in a civil cause three-fourths of the jury may render a verdict. A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

In civil causes the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. In civil causes ~~in municipal or justice court~~ *other than causes within the appellate jurisdiction of the court of appeal* the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court.

In criminal actions in which a felony is charged, the jury shall consist of 12 persons. In criminal actions in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court.

Second — That Section 1 of Article VI thereof is amended to read:

SEC. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, superior courts, and municipal courts. ~~All courts,~~ *all of which* are courts of record.

Third — That Section 4 of Article VI thereof is amended to read:

SEC. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.

~~The county clerk is an ex officio clerk of the superior court in the county.~~

In each superior court there is an appellate division. The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence of the appellate division.

Fourth — That Section 5 of Article VI thereof is amended to read:

SEC. 5. (a) Each county shall be divided into municipal court districts as provided by statute, but a city may not be divided into more than one district. Each municipal court shall have one or more judges. Each municipal court district shall have no fewer than 40,000 residents; provided that each county shall have at least one municipal court district. The number of residents shall be determined as provided by statute.

(b) On the operative date of this subdivision, all existing justice courts shall become municipal courts, and the number, qualifications, and compensation of judges, officers, attachés, and employees shall continue until changed by the Legislature. Each judge of a part-time municipal court is deemed to have agreed to serve full time and shall be available for assignment by the Chief Justice for the balance of time necessary to comprise a full-time workload.

(c) The Legislature shall provide for the organization and prescribe the jurisdiction of municipal courts. It shall prescribe for each municipal court the number, qualifications, and compensation of judges, officers, and employees.

(d) Notwithstanding subdivision (a), any city in San Diego County may be divided into more than one municipal court district if the Legislature determines that unusual geographic conditions warrant such division.

(e) Notwithstanding subdivision (a), the municipal and superior courts shall be unified upon a majority vote of superior court judges and a majority vote of municipal court judges within the county. In those counties, there shall be only a superior court.

Fifth — That Section 6 of Article VI thereof is amended to read:

SEC. 6. The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, 3 judges of courts of appeal, 5 judges of superior courts, ~~and~~ 5 judges of municipal courts, *2 nonvoting court administrators, and such other nonvoting members as determined by the voting membership of the council*, each appointed by the Chief Justice for a ~~2-year~~ 3-year term *pursuant to procedures established by the council*; 4 members of the State Bar appointed by its governing body for ~~2-year~~ 3-year terms; and one member of each house of the Legislature appointed as provided by the house. *Vacancies in the memberships on the Judicial Council otherwise designated for municipal court judges shall be filled by judges of the superior court in the case of appointments made when fewer than 10 counties have municipal courts.*

Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, ~~not inconsistent with statute~~, and perform other functions prescribed by statute. *The rules adopted shall not be inconsistent with statute.*

The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

Judges shall report to the ~~Judicial Council~~ *council* as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

Sixth — That Section 8 of Article VI thereof is amended to read:

SEC. 8. (a) The Commission on Judicial Performance consists of one judge of a court of appeal, one judge of a superior court, and one judge of a municipal court, each appointed by the Supreme Court; 2 members of the State Bar of California who have practiced law in this State for 10 years, each appointed by the governor; and 6 citizens who are not judges, retired judges, or members of the State Bar of California, 2 of whom shall be appointed by the Governor, 2 by the Senate Committee on Rules, and 2 by the Speaker of the Assembly.

Except as provided in ~~subdivision (b)~~ *subdivisions (b) and (c)*, all terms are for 4 years. No member shall serve more than 2 4-year terms, or for more than a total of 10 years if appointed to fill a vacancy. *A vacancy in the membership on the Commission on Judicial Performance otherwise designated for a municipal court judge shall be filled by a judge of the superior court in the case of an appointment made when fewer than 10 counties have municipal courts.*

(b) Commission membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. A member whose term has expired may continue to serve until the vacancy has been filled by the appointing power. Appointing powers may appoint members who are already serving on the commission prior to March 1, 1995, to a single 2-year term, but may not appoint them to an additional term thereafter.

~~(b)~~ (c) To create staggered terms among the members of the Commission on Judicial Performance, the following members shall be appointed, as follows:

(1) Two members appointed by the Supreme Court to a term commencing March 1, 1995, shall each serve a term of 2 years and may be reappointed to one full term.

(2) One attorney appointed by the Governor to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(3) One citizen member appointed by the Governor to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(4) One member appointed by the Senate Committee on Rules to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(5) One member appointed by the Speaker of the Assembly to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(6) All other members shall be appointed to full 4-year terms commencing March 1, 1995.

Seventh — That Section 10 of Article VI thereof is amended to read:

SEC. 10. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. *The appellate division of the superior court has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition directed to the superior court in causes subject to its appellate jurisdiction.*

Superior courts have original jurisdiction in all *other* causes except those given by statute to other trial courts.

The court may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.

Eighth — That Section 11 of Article VI thereof is amended to read:

SEC. 11. (a) The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction *in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes prescribed by statute. When appellate jurisdiction in civil causes is determined by the amount in controversy, the Legislature may change the appellate jurisdiction of the courts of appeal by changing the jurisdictional amount in controversy.*

~~Superior courts have appellate jurisdiction in causes prescribed by statute that arise in municipal courts in their counties.~~

(b) Except as provided in subdivision (a), the appellate division of the superior court has appellate jurisdiction in causes prescribed by statute.

(c) The Legislature may permit appellate courts exercising appellate jurisdiction to take evidence and make findings of fact when jury trial is waived or not a matter of right.

Ninth — That Section 16 of Article VI thereof is amended to read:

SEC. 16. (a) Judges of the Supreme Court shall be elected at large and judges of courts of appeal shall be elected in their districts at general elections at the same time and places as the Governor. Their terms are 12 years beginning the Monday after January 1 following their election, except that a judge elected to an unexpired term serves the remainder of the term. In creating a new court of appeal district or division the Legislature shall provide that the first elective terms are 4, 8, and 12 years.

~~(b) Judges of other~~ *(1) In counties in which there is no municipal court, judges of superior courts shall be elected in their counties at general elections except as otherwise necessary to meet the requirements of federal law. In the latter case the Legislature, by two-thirds vote of the membership of each house thereof, with the advice of judges within the affected court, may provide for their election by the system prescribed in subdivision (d), or by any other arrangement. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.*

(2) In counties in which there is one or more municipal court districts, judges of superior and municipal courts shall be elected in their counties or districts at general elections.

The Legislature may provide that an unopposed incumbent's name not appear on the ballot.

(c) Terms of judges of superior courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the *second* January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

(d) Within 30 days before August 16 preceding the expiration of the judge's term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts.

Tenth — That Section 23 is added to Article VI thereof, to read:

SEC. 23. (a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and 16, of this article, and the amendments

to Section 16 of Article I, approved at the November 5, 1996, general election is to permit the Legislature to provide for the abolition of the municipal courts and unify their operations within the superior courts. Notwithstanding Section 8 of Article IV, the implementation of, and orderly transition under, the provisions of the measure adding this section may include urgency statutes that create or abolish offices or change the salaries, terms, or duties of offices, or grant franchises or special privileges, or create vested rights or interests, where otherwise permitted under this Constitution.

(b) When the superior and municipal courts within a county are unified, the judgeships in each municipal court in that county are abolished and the previously selected municipal court judges shall become judges of the superior court in that county. The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court. The 10-year membership or service requirement of Section 15 does not apply to a previously selected municipal court judge. Pursuant to Section 6, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification.

(c) Except as provided by statute to the contrary, in any county in which the superior and municipal courts become unified, the following shall occur automatically in each preexisting superior and municipal court:

(1) Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.

(2) Preexisting court locations are retained as superior court locations.

(3) Preexisting court records become records of the superior court.

(4) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the

procedures previously applicable to the matters in the court in which the matters were pending.

(5) Matters of a type previously within the appellate jurisdiction of the superior court remain within the jurisdiction of the appellate division of the superior court.

(6) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.

(7) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

Eleventh — That if any provision of this measure or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

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BUSINESS AND PROFESSIONS CODE

Bus. & Prof. Code § 470.3 (amended). Fee for filing first paper in civil action

SEC. _____. Section 470.3 of the Business and Professions Code is amended to read:

470.3. (a) Except as provided in subdivision (b), a fee of not less than one dollar (\$1) and not more than eight dollars (\$8) may be added to the total fees collected and fixed pursuant to Sections 26820.4, 26826, 26827, 68090, 72055, and 72056 of the Government Code for the filing of a first paper in a civil action in superior, *or* municipal, ~~or justice~~ court, other than a small claims action.

(b) A fee of not less than one dollar (\$1) and not more than three dollars (\$3) may be added to the total fees collected and fixed pursuant to Sections 26820.4, 26826, 26827, 68090, 72055, and 72056 of the Government Code for the filing of a first paper in a civil action in superior, *or* municipal, ~~or justice~~ court, for those cases where the monetary damages do not exceed the sum of two thousand five hundred dollars (\$2,500). To facilitate the computation of the correct fee pursuant to this section, the complaint shall contain a declaration under penalty of perjury executed by a party requesting a reduction in fees that the case filed qualifies for the lower fee because claim for money damages will not exceed the sum of two thousand five hundred dollars (\$2,500).

(c) The fees described in subdivisions (a) and (b) shall only be utilized for the support of the dispute resolution programs authorized by this chapter.

(d) A county may carry over moneys received from the additional fees authorized pursuant to subdivisions (a) and (b), which shall be deposited in a special fund created for those purposes, until such time as the county elects to fund a dispute resolution program. Records of those fees shall be available for inspection by the public, upon request.

Comment. Section 470.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6152 (amended). Runners and cappers

SEC. _____. Section 6152 of the Business and Professions Code is amended to read:

6152. (a) It is unlawful for:

(1) Any person, in ~~his~~ *an* individual capacity or in ~~his~~ *a* capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner or capper for any such attorneys or to solicit any business for any such attorneys in and about the state prisons, county jails, city jails, city prisons, or other places of detention of persons, city receiving hospitals, city and county receiving hospitals, county hospitals, ~~justice—courts~~, municipal courts, superior courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever.

(2) Any person to solicit another person to commit or join in the commission of a violation of subdivision (a).

(b) A general release from a liability claim obtained from any person during the period of the first physical confinement, whether as an inpatient or outpatient, in a clinic or health facility, as defined in Sections 1203 and 1250 of the Health and Safety Code, as a result of the injury alleged to have given rise to such claim and primarily for treatment of such injury, is presumed fraudulent if such release is executed within 15 days after the commencement of such confinement or prior to release from such confinement, whichever occurs first.

(c) Nothing in this section shall be construed to prevent the recommendation of professional employment where such recommendation is not prohibited by the Rules of Professional Conduct of the State Bar of California.

(d) Nothing in this section shall be construed to mean that a public defender or assigned counsel may not make known his or her services as a criminal defense attorney to persons unable to afford legal counsel whether such persons are in custody or otherwise.

Comment. Section 6152 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6301 (amended). Board of law library trustees

SEC. _____. Section 6301 of the Business and Professions Code is amended to read:

6301. A board of law library trustees is constituted as follows:

(a) In a county where there are no more than three judges of the superior court, each of such judges is ex officio a trustee; in a county where there are more than three judges of the superior court, the judges of the court shall elect three of their number to serve as trustees. However, where there are no more than three judges of the superior court, the judges may at their option select only one of their number to serve as a trustee, and in such event they shall appoint two additional trustees who are members of the bar of the county.

Any judge who is an ex officio or elected member may at ~~his~~ *the judge's* option designate a member of the bar of the county to act for ~~him~~ *the judge* as trustee.

(b) In a county with ~~no more than one or two~~ municipal and justice courts the judges of such court or courts shall elect one of their number to serve as trustee. In a county with three or more municipal and justice courts the judges of such courts may elect two of their number to serve as trustees. *In a county in which there is no municipal court, the judges of the superior court may elect one of their number, or appoint one member of the bar of the county, to serve as trustee, in addition to the trustees elected pursuant to subdivision (a).*

(c) The chairman of the board of supervisors is ex officio a trustee, but the board of supervisors at the request of the chairman may appoint a member of the bar of the county or any other member of the board of supervisors of the county to serve as trustee in place of said chairman. The appointment of the person selected in lieu of the chairman of the board of supervisors shall expire when a new chairman of the board of supervisors is selected, and such appointment shall not be subject to the provisions of Section 6302.

(d) The board of supervisors shall appoint as many additional trustees, who are members of the bar of the county, as may be necessary to constitute a board of six members in any county where ~~the municipal and justice courts have elected one member~~ *is elected pursuant to subdivision (b)*, or of seven members in any county where ~~the municipal and justice courts two members~~ *are elected to serve as trustees pursuant to subdivision (b)*.

Comment. Section 6301 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6302.5 (amended). Board of law library trustees of Los Angeles County

SEC. _____. Section 6302.5 of the Business and Professions Code is amended to read:

6302.5. Notwithstanding any other provision of law, in Los Angeles County appointments made by judges of the superior court, ~~municipal court, and justice~~ *or municipal* court shall be for a term of four years, and appointments made by the board of supervisors of the county shall be for a term of two years.

Trustees who are incumbents on the effective date of this section shall be considered to have started their terms on the effective date of this section.

At the first regular meeting following the effective date of this section, the members appointed by the judiciary shall classify themselves by lot so that three members shall serve for four years, and two members for two years. Thereafter the term of office of each member so appointed shall be four years.

At the first regular meeting following the effective date of this section, the members appointed by the board of supervisors shall classify themselves by lot so that one member shall serve for two years, and one member for one year. Thereafter the term of office of each member so appointed shall be two years.

Comment. Section 6302.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6321 (amended). Filing fee

SEC. _____. Section 6321 of the Business and Professions Code is amended to read:

6321. On the commencement in, or the removal to, the superior court of any county in this State, of any civil action, proceeding, or appeal, and on the commencement in, or removal to, the municipal court ~~or justice court~~ in any county, of any civil action or proceeding, the party instituting such proceeding, or filing the first papers, shall pay to the clerk of the court, for the law library, on filing the first papers, the sum of the dollar (\$1) as costs, in addition to the fees fixed by law.

Comment. Section 6321 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6322 (amended). First appearance fee

SEC. _____. Section 6322 of the Business and Professions Code is amended to read:

6322. Thereafter, any defendant, respondent, adverse party, or intervening party, on ~~his~~ *making a* first appearance in a superior, ~~or municipal, or justice or municipal~~ court, or any number of such defendants, respondents, or parties, appearing jointly, shall pay to the clerk of the court, for the law library, the sum of one dollar (\$1) as costs, in addition to the fees fixed by law.

Comment. Section 6322 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6341 (amended). Law library branches

SEC. _____. Section 6341 of the Business and Professions Code is amended to read:

6341. Any board of law library trustees may establish and maintain a branch of the law library in any city in the county, other than the county seat, in which a session of the superior court or of a municipal court is held, or in which a municipal court has been authorized by statute but has not yet begun to operate. In any city constituting the county seat, any board of law library trustees may establish and maintain a branch of the law library at any location therein where four or more judges of the municipal court, *or of the superior court in a county in which there is no municipal court*, are

designated to hold sessions more than 10 miles distant from the principal office of the ~~municipal~~ court. In any city and county any board of law library trustees may establish and maintain branches of the law library. A branch is in all respects a part of the law library and is governed accordingly.

Comment. Section 6341 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Bus. & Prof. Code § 7028.2 (amended). Venue for criminal complaint

SEC. _____. Section 7028.2 of the Business and Professions Code is amended to read:

7028.2. A criminal complaint pursuant to this chapter may be brought by the Attorney General or by the district attorney or prosecuting attorney of any city, in ~~the municipal court of~~ any county in the state with jurisdiction over the contractor or employer, by reason of the contractor's or employer's act, or failure to act, within that jurisdiction. Any penalty assessed by the court shall be paid to the office of the prosecutor bringing the complaint.

Comment. Section 7028.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). A misdemeanor complaint may be brought in the municipal court or in the superior court in a county in which there is no municipal court. Penal Code § 1462.

Bus. & Prof. Code § 17209 (amended). Notice to Attorney General and county district attorney

SEC. _____. Section 17209 of the Business and Professions Code is amended to read:

17209. If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate department *division* of a superior court, the person who commenced that proceeding shall serve notice thereof, including a copy of the person's brief or petition and brief, on the Attorney General, directed to the attention of the Consumer Law Section, and on the district attorney of the county in which the lower court action or proceeding was originally filed. The notice, including the brief or petition and brief, shall be served within three days after

the commencement of the appellate proceeding, provided that the time may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

Comment. Section 17209 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

Bus. & Prof. Code § 17536.5 (amended). Notice to Attorney General and county district attorney

SEC. _____. Section 17536.5 of the Business and Professions Code is amended to read:

17536.5. If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate department *division* of a superior court, the person who commenced that proceeding shall serve notice thereof, including a copy of the person's brief or petition and brief, on the Attorney General, directed to the attention of the Consumer Law Section, and on the district attorney of the county in which the lower court action or proceeding was originally filed. The notice, including the brief or petition and brief, shall be served within three days after the commencement of the appellate proceeding, provided that the time may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

Comment. Section 17536.5 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

Bus. & Prof. Code § 25762 (amended). Fines and forfeitures of bail

SEC. _____. Section 25762 of the Business and Professions Code is amended to read:

25762. All fines and forfeitures of bail imposed for a violation of this division and collected in any court other than a municipal court or a justice court shall be paid to the county treasurer of the county in which the court is held.

All fines and forfeitures of bail imposed for violation of this division and collected upon conviction or upon forfeiture of bail, together with money deposited as bail, in any municipal court or justice court shall be deposited with the county treasurer of the county in which such court is situated and the money deposited shall be distributed and disposed of pursuant to Penal Code Section 1463.

Comment. Section 25762 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

CIVIL CODE

Civ. Code § 798.61 (amended). Abandoned mobilehomes

SEC. _____. Section 798.61 of the Civil Code is amended to read:

798.61. (a)(1) As used in this section, “abandoned mobilehome” means a mobilehome about which all of the following are true:

(A) It is located in a mobilehome park on a site for which no rent has been paid to the management for the preceding 60 days.

(B) It is unoccupied.

(C) A reasonable person would believe it to be abandoned.

(2) For purposes of this section:

(A) “Mobilehome” shall include a trailer coach, as defined in Section 635 of the Vehicle Code, or a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, if the trailer coach or recreational vehicle also satisfies the requirements of paragraph (1), including being located on any site within a mobilehome park, even if the site is in a separate designated section pursuant to Section 18215 of the Health and Safety Code.

(B) “Abandoned mobilehome” shall include a mobilehome which is uninhabitable because of its total or partial destruction which cannot be rehabilitated, if the mobilehome also satisfies the requirements of paragraph (1).

(b) After determining a mobilehome in a mobilehome park to be an abandoned mobilehome, the management shall post a notice of belief of abandonment on the mobilehome for not less than 30 days, and shall deposit copies of the notice in the United States mail, postage prepaid, addressed to the homeowner at the last

known address and to any known registered owner, if different from the homeowner, and to any known holder of a security interest in the abandoned mobilehome. This notice shall be mailed by registered or certified mail with a return receipt requested.

(c) Thirty or more days following posting pursuant to subdivision (b), the management may file a petition in the municipal ~~or justice~~ court for the judicial district in which the mobilehome park is located, *or in the superior court in a county in which there is no municipal court*, for a judicial declaration of abandonment of the mobilehome. *A proceeding under this subdivision is a limited civil case.* Copies of the petition shall be served upon the homeowner, any known registered owner, and any known person having a lien or security interest of record in the mobilehome by posting a copy on the mobilehome and mailing copies to those persons at their last known addresses by registered or certified mail with a return receipt requested in the United States mail, postage prepaid.

(d)(1) Hearing on the petition shall be given precedence over other matters on the court's calendar.

(2) If, at the hearing, the petitioner shows by a preponderance of the evidence that the criteria for an abandoned mobilehome has been satisfied and no party establishes an interest therein at the hearing, the court shall enter a judgment of abandonment, determine the amount of charges to which the petitioner is entitled, and award attorney's fees and costs to the petitioner. For purposes of this subdivision an interest in the mobilehome shall be established by evidence of a right to possession of the mobilehome or a security or ownership interest in the mobilehome.

(3) A default may be entered by the court clerk upon request of the petitioner, and a default judgment shall be thereupon entered, if no responsive pleading is filed within 15 days after service of the petition by mail.

(e)(1) Within 10 days following a judgment of abandonment, the management shall enter the abandoned mobilehome and complete an inventory of the contents and submit the inventory to the court.

(2) During this period the management shall post and mail notice of intent to sell the abandoned mobilehome and its contents under

this section, and announcing the date of sale, in the same manner as provided for the notice of determination of abandonment under subdivision (b).

(3) At any time prior to sale of a mobilehome under this section, any person having a right to possession of the mobilehome may recover and remove it from the premises upon payment to the management of all rent or other charges due, including reasonable costs of storage and other costs awarded by the court. Upon receipt of this payment and removal of the mobilehome from the premises pursuant to this paragraph, the management shall immediately file an acknowledgment of satisfaction of judgment pursuant to Section 724.030 of the Code of Civil Procedure.

(f) Following the judgment of abandonment, but not less than 10 days following the notice of sale specified in subdivision (e), the management may conduct a public sale of the abandoned mobilehome and its contents. The management may bid at the sale and shall have the right to offset its bids to the extent of the total amount due it under this section. The proceeds of the sale shall be retained by the management, but any unclaimed amount thus retained over and above the amount to which the management is entitled under this section shall be deemed abandoned property and shall be paid into the treasury of the county in which the sale took place within 30 days of the date of the sale. The former homeowner or any other owner may claim any or all of that unclaimed amount within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays any or all of that unclaimed amount to a claimant, neither the county nor any officer or employee of the county is liable to any other claimant as to the amount paid.

(g) Within 30 days of the date of the sale, the management shall submit to the court an accounting of the moneys received from the sale and the disposition of the money and the items contained in the inventory submitted to the court pursuant to subdivision (e).

(h) The management shall provide the purchaser at the sale with a copy of the judgment of abandonment and evidence of the sale, as shall be specified by the State Department of Housing and

Community Development or the Department of Motor Vehicles, which shall register title in the abandoned mobilehome to the purchaser upon presentation thereof. The sale shall pass title to the purchaser free of any prior interest, including any security interest or lien, except the lien provided for in Section 18116.1 of the Health and Safety Code, in the abandoned mobilehome.

Comment. Section 798.61 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Civ. Code § 1181 (amended). Proof or acknowledgment of instrument

SEC. _____. Section 1181 of the Civil Code is amended to read:

1181. The proof or acknowledgment of an instrument may be made before a notary public at any place within this state, or within the county or city and county in this state in which the officer specified below was elected or appointed, before either:

(a) A clerk of a superior, ~~municipal, or justice or municipal~~ court.

(b) A county clerk.

(c) A court commissioner.

(d) A judge or retired judge of a municipal or justice court.

(e) A district attorney.

(f) A clerk of a board of supervisors.

(g) A city clerk.

(h) A county counsel.

(i) A city attorney.

Comment. Subdivision (a) of Section 1181 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The reference to a retired judge of a justice court is maintained in subdivision (d) to enable retired judges of justice courts to continue to take proofs or acknowledgments of instruments.

Civ. Code § 1719 (amended). Checks passed on insufficient funds

SEC. _____. Section 1719 of the Civil Code is amended to read:

1719. (a)(1) Notwithstanding any penal sanctions that may apply, any person who passes a check on insufficient funds shall be liable to the payee for the amount of the check and a service charge payable to the payee for an amount not to exceed twenty-five dollars (\$25) for the first check passed on insufficient funds and an amount not to exceed thirty-five dollars (\$35) for each subsequent check to that payee passed on insufficient funds.

(2) Notwithstanding any penal sanctions that may apply, any person who passes a check on insufficient funds shall be liable to the payee for damages equal to treble the amount of the check if a written demand for payment is mailed by certified mail to the person who had passed a check on insufficient funds and the written demand informs this person of (A) the provisions of this section, (B) the amount of the check, and (C) the amount of the service charge payable to the payee. The person who had passed a check on insufficient funds shall have 30 days from the date the written demand was mailed to pay the amount of the check, the amount of the service charge payable to the payee, and the costs to mail the written demand for payment. If this person fails to pay in full the amount of the check, the service charge payable to the payee, and the costs to mail the written demand within this period, this person shall then be liable instead for the amount of the check, minus any partial payments made toward the amount of the check or the service charge within 30 days of the written demand, and damages equal to treble that amount, which shall not be less than one hundred dollars (\$100) nor more than one thousand five hundred dollars (\$1,500). When a person becomes liable for treble damages for a check that is the subject of a written demand, that person shall no longer be liable for any service charge for that check and any costs to mail the written demand.

(3) Notwithstanding paragraphs (1) and (2), a person shall not be liable for the service charge, costs to mail the written demand, or treble damages if he or she stops payment in order to resolve a good faith dispute with the payee. The payee is entitled to the service charge, costs to mail the written demand, or treble damages

only upon proving by clear and convincing evidence that there was no good faith dispute, as defined in subdivision (b).

(4) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if, at any time, he or she presents the payee with written confirmation by his or her financial institution that the check was returned to the payee by the financial institution due to an error on the part of the financial institution.

(5) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if the person presents the payee with written confirmation that his or her account had insufficient funds as a result of a delay in the regularly scheduled transfer of, or the posting of, a direct deposit of a social security or government benefit assistance payment.

(6) As used in this subdivision, to “pass a check on insufficient funds” means to make, utter, draw, or deliver any check, draft, or order for the payment of money upon any bank, depository, person, firm, or corporation that refuses to honor the check, draft, or order for any of the following reasons:

(A) Lack of funds or credit in the account to pay the check.

(B) The person who wrote the check does not have an account with the drawee.

(C) The person who wrote the check instructed the drawee to stop payment on the check.

(b) For purposes of this section, in the case of a stop payment, the existence of a “good faith dispute” shall be determined by the trier of fact. A “good faith dispute” is one in which the court finds that the drawer had a reasonable belief of his or her legal entitlement to withhold payment. Grounds for the entitlement include, but are not limited to, the following: services were not rendered, goods were not delivered, goods or services purchased are faulty, not as promised, or otherwise unsatisfactory, or there was an overcharge.

(c) In the case of a stop payment, the notice to the drawer required by this section shall be in substantially the following form:

NOTICE

To _____
(name of drawer)

_____ is the payee of a check you wrote
(name of payee)

for \$ _____. The check was not paid because
(amount)

you stopped payment, and the payee demands payment. You may have a good faith dispute as to whether you owe the full amount. If you do not have a good faith dispute with the payee and fail to pay the payee the full amount of the check in cash, a service charge of an amount not to exceed twenty-five dollars (\$25) for the first check passed on insufficient funds and an amount not to exceed thirty-five dollars (\$35) for each subsequent check passed on insufficient funds, and the costs to mail this notice within 30 days after this notice was mailed, you could be sued and held responsible to pay at least both of the following:

(1) The amount of the check.

(2) Damages of at least one hundred dollars (\$100) or, if higher, three times the amount of the check up to one thousand five hundred dollars (\$1,500).

If the court determines that you do have a good faith dispute with the payee, you will not have to pay the service charge, treble damages, or mailing cost.

If you stopped payment because you have a good faith dispute with the payee, you should try to work out your dispute with the payee. You can contact the payee at:

(name of payee)

(street address)

(telephone number)

You may wish to contact a lawyer to discuss your legal rights and responsibilities.

(name of sender of notice)

(d) In the case of a stop payment, a court may not award damages or costs under this section unless the court receives into evidence a copy of the written demand which, in that case, shall have been sent to the drawer and a signed certified mail receipt showing delivery, or attempted delivery if refused, of the written demand to the drawer's last known address.

(e) A cause of action under this section may be brought in small claims court by the original payee, if it does not exceed the jurisdiction of that court, or in any other appropriate court. The payee shall, in order to recover damages because the drawer instructed the drawee to stop payment, show to the satisfaction of the trier of fact that there was a reasonable effort on the part of the payee to reconcile and resolve the dispute prior to pursuing the dispute through the courts.

(f) A cause of action under this section may be brought in ~~municipal court~~ by a holder of the check or an assignee of the payee. *A proceeding under this section is a limited civil case.* However, if the assignee is acting on behalf of the payee, for a flat fee or a percentage fee, the assignee may not charge the payee a greater flat fee or percentage fee for that portion of the amount collected that represents treble damages than is charged the payee for collecting the face amount of the check, draft, or order. This subdivision shall not apply to an action brought in small claims court.

(g) Notwithstanding subdivision (a), if the payee is a ~~municipal~~ *the* court, the written demand for payment described in subdivision (a) may be mailed to the drawer by a ~~municipal~~ *the* court clerk. Notwithstanding subdivision (d), in the case of a stop payment where the demand is mailed by a ~~municipal~~ *the* court clerk, a court may not award damages or costs pursuant to subdivision (d), unless the court receives into evidence a copy of the written demand, and a certificate of mailing by a ~~municipal~~ *the* court clerk in the form

provided for in subdivision (4) of Section 1013a of the Code of Civil Procedure for service in civil actions. For purposes of this subdivision, in courts where a single court clerk serves more than one court, the clerk shall be deemed the court clerk of each court.

(h) The requirements of this section in regard to remedies are mandatory upon a court.

(i) The assignee of the payee or a holder of the check may demand, recover, or enforce the service charge, damages, and costs specified in this section to the same extent as the original payee.

(j)(1) A drawer is liable for damages and costs only if all of the requirements of this section have been satisfied.

(2) The drawer shall in no event be liable more than once under this section on each check for a service charge, damages, or costs.

(k) Nothing in this section is intended to condition, curtail, or otherwise prejudice the rights, claims, remedies, and defenses under Division 3 (commencing with Section 3101) of the Commercial Code of a drawer, payee, assignee, or holder, including a holder in due course as defined in Section 3302 of the Commercial Code, in connection with the enforcement of this section.

Comment. Subdivisions (f) and (g) of Section 1719 are amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Civ. Code § 1780 (amended). Action for unlawful method, act, or practice

SEC. _____. Section 1780 of the Civil Code is amended to read:

1780. (a) Any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared to be unlawful by Section 1770 may bring an action against such person to recover or obtain any of the following:

(1) Actual damages, but in no case shall the total award of damages in a class action be less than one thousand dollars (\$1,000).

- (2) An order enjoining such methods, acts, or practices.
- (3) Restitution of property.
- (4) Punitive damages.
- (5) Any other relief which the court deems proper.

(b) Any consumer who is a senior citizen or a disabled person, as defined in subdivisions (f) and (g) of Section 1761, as part of an action under subdivision (a), may seek and be awarded, in addition to the remedies specified therein, up to five thousand dollars (\$5,000) where the trier of fact (1) finds that the consumer has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct, (2) makes an affirmative finding in regard to one or more of the factors set forth in subdivision (b) of Section 3345, and (3) finds that an additional award is appropriate. Judgment in a class action by senior citizens or disabled persons under Section 1781 may award each class member such an additional award where the trier of fact has made the foregoing findings.

(c) An action under subdivision (a) or (b) may be commenced in the county in which the person against whom it is brought resides, has his or her principal place of business, or is doing business, or in the county where the transaction or any substantial portion thereof occurred.

If within any such county there is a municipal ~~or justice~~ court, having jurisdiction of the subject matter, established in the city and county or judicial district in which the person against whom the action is brought resides, has his or her principal place of business, or is doing business, or in which the transaction or any substantial portion thereof occurred, then such court is the proper court for the trial of such action. Otherwise, any municipal ~~or justice~~ court in such county having jurisdiction of the subject matter is the proper court for the trial thereof.

In any action subject to the provisions of this section, concurrently with the filing of the complaint, the plaintiff shall file an affidavit stating facts showing that the action has been commenced in a county or judicial district described in this section as a proper place for the trial of the action. If a plaintiff fails to file the affidavit required by this section, the court shall, upon its own

motion or upon motion of any party, dismiss any such action without prejudice.

(d) The court shall award court costs and attorney's fees to a prevailing plaintiff in litigation filed pursuant to this section. Reasonable attorney's fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff's prosecution of the action was not in good faith.

Comment. Section 1780 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Civ. Code § 1812.10 (amended). Action on contract or installment account

SEC. _____. Section 1812.10 of the Civil Code is amended to read:

1812.10. An action on a contract or installment account under the provisions of this chapter shall be tried in the county in which the contract was in fact signed by the buyer, in the county in which the buyer resided at the time the contract was entered into, in the county in which the buyer resides at the commencement of the action, or in the county in which the goods purchased pursuant to such contract have been so affixed to real property as to become a part of such real property.

If within any such county there is a municipal ~~or justice~~ court, having jurisdiction of the subject matter, established in the city and county or judicial district in which the contract was in fact signed by the buyer, or in which the buyer resided at the time the contract was entered into, or in which the buyer resides at the commencement of the action or in which the goods purchased pursuant to such contract have been so affixed to real property as to become a part of such real property, then such court is the proper court for the trial of such action. Otherwise, any ~~municipal or justice~~ court in such county, having jurisdiction of the subject matter, is the proper court for the trial thereof.

In any action subject to the provisions of this section, concurrently with the filing of the complaint, the plaintiff shall file

an affidavit stating facts showing that the action has been commenced in a county or judicial district described in this section as a proper place for the trial of the action. Such facts may be stated in a verified complaint and shall not be stated on information or belief. When such affidavit is filed with the complaint, a copy thereof shall be served with the summons. If a plaintiff fails to file the affidavit or state facts in a verified complaint required by this section, no further proceedings shall be had, but the court shall, upon its own motion or upon motion of any party, dismiss any such action without prejudice; however, the court may, on such terms as may be just, permit the affidavit to be filed subsequent to the filing of the complaint and a copy of such affidavit shall be served on the defendant. The time to answer or otherwise plead shall date from such service.

Comment. Section 1812.10 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Civ. Code § 2984.4 (amended). Action on contract or purchase order

SEC. _____. Section 2984.4 of the Civil Code is amended to read:

2984.4. An action on a contract or purchase order under the provisions of this chapter shall be tried in the county in which the contract or purchase order was in fact signed by the buyer, in the county in which the buyer resided at the time the contract or purchase order was entered into, in the county in which the buyer resides at the commencement of the action or in the county in which the motor vehicle purchased pursuant to such contract or purchase order is permanently garaged.

In any action involving multiple claims, or causes of action, venue shall lie in such counties so long as there is at least one claim or cause of action arising from a contract subject to the provisions of this chapter.

If within any such county there is a municipal ~~or justice~~ court, having jurisdiction of the subject matter, established in the judicial district in which the contract, conditional sale contract, or purchase order was in fact signed by the buyer, or in which the buyer resided

at the time the contract, conditional sale contract, or purchase order was entered into, or in which the buyer resides at the commencement of the action, or in which the motor vehicle purchased pursuant to such contract is permanently garaged, such court is the proper court for the trial of the action. Otherwise, any ~~municipal or justice~~ court in such county, having jurisdiction of the subject matter, is the proper court for the trial of the action.

In any action subject to the provisions of this section, concurrently with the filing of the complaint, the plaintiff shall file an affidavit stating facts showing that the action has been commenced in a county or judicial district described in this section as a proper place for the trial of the action. Such facts may be stated in a verified complaint and shall not be stated on information or belief. When such affidavit is filed with the complaint, a copy thereof shall be served with the summons. If a plaintiff fails to file the affidavit or state facts in a verified complaint required by this section, no further proceedings shall be had, but the court shall, upon its own motion or upon motion of any party, dismiss any such action without prejudice; however, the court may, on such terms as may be just, permit the affidavit to be filed subsequent to the filing of the complaint and a copy of such affidavit shall be served on the defendant. The time to answer or otherwise plead shall date from such service.

Comment. Section 2984.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Civ. Code § 3342.5 (amended). Dog bites

SEC. _____. Section 3342.5 of the Civil Code is amended to read:

3342.5. (a) The owner of any dog which has bitten a human being shall have the duty to take such reasonable steps as are necessary to remove any danger presented to other persons from bites by the animal.

(b) Whenever a dog has bitten a human being on at least two separate occasions, any person, the district attorney, or city attorney may bring an action ~~in the municipal court~~ against the

owner of the animal to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by such animal. This action shall be brought in the county where a bite occurred. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction if necessary.

(c) Whenever a dog trained to fight, attack, or kill has bitten a human being, causing substantial physical injury, any person, including the district attorney, or city attorney may bring an action ~~in the municipal court~~ against the owner of the animal to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by the animal. This action shall be brought in the county where a bite occurred. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction if necessary.

(d) Nothing in this section shall authorize the bringing of an action pursuant to subdivision (b) based on a bite or bites inflicted upon a trespasser, or by a dog used in military or police work if the bite or bites occurred while the dog was actually performing in that capacity.

(e) Nothing in this section shall be construed to prevent legislation in the field of dog control by any city, county, or city and county.

~~(g)~~ (f) Nothing in this section shall be construed to affect the liability of the owner of a dog under Section 3342 or any other provision of the law.

(g) A proceeding under this section is a limited civil case.

Comment. Section 3342.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1

(limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

CODE OF CIVIL PROCEDURE

Code Civ. Proc. § 32.5 (added). Jurisdictional classification

SEC. _____. Section 32.5 is added to the Code of Civil Procedure, to read:

32.5. The “jurisdictional classification” of a case means its classification as a limited civil case or otherwise.

Comment. Section 32.5 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment. The term is used in Sections 395.9, 996.430, 1140, 1171, 1206, and 1287.4.

Code Civ. Proc. § 38 (added). Judicial districts

SEC. _____. Section 38 is added to the Code of Civil Procedure, to read:

38. Unless the provision or context otherwise requires, a reference in a statute to a judicial district means:

- (a) As it relates to a court of appeal, the court of appeal district.
- (b) As it relates to a superior court, the county.
- (c) As it relates to a municipal court, the municipal court district.
- (d) As it relates to a county in which there is no municipal court, the county.

Comment. Section 38 is intended for drafting convenience. See also Section 17 (“judicial district” includes city and county). Court of appeal districts and municipal court districts are constitutionally mandated. See Cal. Const. art. VI, §§ 3, 5. Superior court districts do not exist except in Los Angeles County. See Gov’t Code §§ 69640-69650.

By operation of this section, in a county in which the superior and municipal courts have unified, a statutory reference to a judicial district means the county rather than a former municipal court district. This general rule is subject to exceptions. See, e.g., Gov’t Code § 71042.5 (preservation of judicial districts for purpose of publication).

Code Civ. Proc. § 77 (amended). Appellate division

SEC. _____. Section 77 of the Code of Civil Procedure is amended to read:

77. (a) In every county and city and county, there is an appellate department *division* of the superior court consisting of three judges or, when the Chairperson of the Judicial Council *Chief Justice* finds it necessary, four judges.

~~(1) In a county with three or fewer judges of the superior court, the appellate department shall consist of those judges, one of whom shall be designated as presiding judge by the Chairperson of the Judicial Council, and an additional judge or judges as designated by the Chairperson of the Judicial Council. Each additional judge shall be a judge of the superior court of another county or a judge retired from the superior court or court of higher jurisdiction in this state.~~

~~(2) In a county with four or more judges of the superior court, the appellate department shall consist of judges of that court designated by the Chairperson of the Judicial Council, who shall also designate one of the judges as the presiding judge of the department. judges. The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence and quality of each appellate division. Each judge assigned to the appellate division of a superior court shall be a judge of that court, a judge of the superior court of another county, or a judge retired from the superior court or a court of higher jurisdiction in this state. The Chief Justice shall designate one of the judges of each appellate division as the presiding judge of the division.~~

~~(b) In an appellate department with four judges, In each appellate division, no more than three judges shall participate in a hearing or decision. The presiding judge of the department division shall designate the three judges who shall participate.~~

(c) In addition to their other duties, the judges designated as members of the appellate department *division* of the superior court shall serve for the period specified in the order of designation. Whenever a judge is designated to serve in the appellate department *division* of the superior court of a county other than the county in which such judge was elected or appointed as a superior court judge, or if he *the judge* is retired, in a county other than the

county in which he ~~resides~~, *he the judge resides, the judge* shall receive from the county to which he is designated ~~his~~ *the judge is designated* expenses for travel, board, and lodging. If the judge is out of his *the judge's* county overnight or longer, by reason of the designation, such judge shall be paid a per diem allowance in lieu of expenses for board and lodging in the same amounts as are payable for such purposes to justices of the Supreme Court under the rules of the State Board of Control. In addition, a retired judge shall receive from the state and the county to which he ~~the judge~~ is designated, for the time so served, amounts equal to that which he ~~the judge~~ would have received from each if he ~~the judge~~ had been assigned to the superior court of the county.

(d) The concurrence of two judges of the appellate department *division* of the superior court shall be necessary to render the decision in every case in, and to transact any other business except such that may be done at chambers by the presiding judge of, such department *the division*. The presiding judge shall convene such department at such times as may be *the division as* necessary. He *The presiding judge* shall also supervise its business and transact such thereof as may be done at chambers.

(e) ~~Every appellate department under this section shall have jurisdiction on appeal from the municipal and justice courts within the county or city and county in all cases in which an appeal may be taken to the superior court as is now or may hereafter be provided by law, except such appeals as require a retrial in the superior court.~~ *The appellate division of the superior court has jurisdiction on appeal from the following courts, in all cases in which an appeal may be taken to the superior court or the appellate division of the superior court as provided by law, except where the appeal is a retrial in the superior court:*

(1) *The municipal courts within the county.*

(2) *The superior court in a county in which there is no municipal court.*

(f) The powers of each appellate department *division* shall be the same as are now or may hereafter be provided by law or rule of the Judicial Council relating to appeals to the *appellate division of the* superior courts.

(f) (g) The Judicial Council may *shall* promulgate rules, not inconsistent with law, ~~governing to promote the independence of, and govern~~ the practice and procedure and the disposition of the business of such ~~appellate departments, or of each class thereof,~~ *the appellate division.*

(h) *A reference in any other statute to the appellate department of the superior court means the appellate division of the superior court.*

Comment. Section 77 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Subdivision (a) requires adoption of court rules intended to promote the independence and quality of judges serving in the appellate division. See Cal. Const. art. VI, § 4 (expressly recognizing the goal of promoting the independence of the appellate division). Rules may provide relevant factors to be used in making appointments to the appellate division, such as length of service as a judge, reputation within the unified court, and degree of separateness of the appellate division workload from the judge's regular assignments (e.g., a superior court judge who routinely handles large numbers of misdemeanors might ordinarily not serve in the appellate division). Review by a panel of judges might include judges assigned from another county in appropriate circumstances, or even by a panel of appellate division judges from different superior courts who sit in turn in each of the superior courts in the "circuit."

Subdivision (b) continues the rule that the appellate division sits in panels of three. A judge may not participate in appellate review of any proceeding that the judge tried or heard. Section 170.1(7)(b).

Subdivision (e) is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). It is also amended to specify the jurisdiction of the appellate division in a unified superior court. For guidance on which civil cases are subject to the appellate jurisdiction of the appellate division, see Section 904.2 (taking appeal in limited civil case) and Constitution Article VI, Section 11.

Section 77 is amended throughout to replace references to the appellate department with references to the appellate division, and to replace references to the Chairperson of the Judicial Council with references to the Chief Justice. This is consistent with the terminology used in Constitution Article VI, Sections 4, 10, and 11.

Heading of Chapter 5 (commencing with Section 81) (amended)

SEC _____. The heading of Chapter 5 (commencing with Section 81) of Title 1 of Part 1 of the Code of Civil Procedure is amended to read:

CHAPTER 5. MUNICIPAL COURTS AND JUSTICE COURTS

Comment. The heading “Chapter 5. Municipal Courts and Justice Courts” is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Article 1 (commencing with Section 81) (repealed)

SEC _____. The heading of Article 1 (commencing with Section 81) of Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure is repealed.

~~Article 1. General Provisions~~

Comment. The heading “Article 1. General Provisions” is repealed as unnecessary.

Code Civ. Proc. § 82 (amended). Effect of establishing municipal court

SEC. _____. Section 82 of the Code of Civil Procedure is amended to read:

82. The establishment of a municipal court, ~~or justice court~~, in a county, or city and county, or the determination of the jurisdiction of ~~such courts~~ *a municipal court* by the Legislature, shall not affect, alter or diminish the previously existing jurisdiction of the superior court of any county, or city and county, other than that of the county, or city and county, wherein such municipal ~~or justice~~ court is established.

Comment. Section 82 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 83 (repealed). Concurrent jurisdiction

SEC. _____. Section 83 of the Code of Civil Procedure is repealed.

~~83. The jurisdiction of municipal and justice courts is the same and concurrent.~~

Comment. Section 83 is repealed to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 84 (amended). Process

SEC. _____. Section 84 of the Code of Civil Procedure is amended to read:

84. The process of municipal courts ~~and justice courts~~ shall extend throughout the State.

Comment. Section 84 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 85 (repealed). Money judgments

SEC. _____. Section 85 of the Code of Civil Procedure is repealed.

~~85. If the judgment or order in a municipal court or justice court in any action or proceeding in which the defendant has appeared is for the payment of money by the defendant, the defendant shall pay the same immediately or at any time and upon such terms and conditions, including installment payments, which the court may prescribe. The court may amend the terms and conditions for payment of the judgment or order at any time to provide for installment payments for good cause upon motion by a party and notice to all affected parties, regardless of the nature of the underlying debt and regardless whether the moving party appeared before entry of such judgment or order. In any determination regarding the imposition of terms and conditions upon the payment of the judgment, the court shall consider any factors which would be relevant to the determination of a claim for exemption pursuant to Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 or the examination of a debtor pursuant to Article 2 (commencing with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part 2.~~

Comment. Former Section 85 is continued in Section 582.5 without substantive change, except that Section 582.5 refers to limited civil cases instead of cases brought in municipal court.

Code Civ. Proc. §§ 85-85.1 (added). Limited civil cases

SEC. _____. Chapter 5.1 (commencing with Section 85) is added to Title 1 of Part 1 of the Code of Civil Procedure, to read:

CHAPTER 5.1. LIMITED CIVIL CASES

Article 1. Jurisdiction in Limited Civil Cases

§ 85. Limited civil cases

85. An action or special proceeding shall be treated as a limited civil case if all of the following conditions are satisfied, and, notwithstanding any statute that classifies an action or special proceeding as a limited civil case, an action or special proceeding shall not be treated as a limited civil case unless all of the following conditions are satisfied:

(a) The amount in controversy does not exceed twenty-five thousand dollars (\$25,000). As used in this section, “amount in controversy” means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, which is in controversy in the action, exclusive of attorney fees, interest, and costs.

(b) The relief sought is a type that may be granted in a limited civil case.

(c) The relief sought, whether in the complaint, a cross-complaint, or otherwise, is exclusively of a type described in one or more statutes that classify an action or special proceeding as a limited civil case or that provide that an action or special proceeding is within the original jurisdiction of the municipal court, including, but not limited to, the following provisions:

- (1) Section 798.61 of the Civil Code.
- (2) Section 1719 of the Civil Code.
- (3) Section 3342.5 of the Civil Code.
- (4) Section 86.
- (5) Section 86.1.
- (6) Section 1710.20.
- (7) Section 7581 of the Food and Agricultural Code.
- (8) Section 12647 of the Food and Agricultural Code.
- (9) Section 27601 of the Food and Agricultural Code.
- (10) Section 31503 of the Food and Agricultural Code.
- (11) Section 31621 of the Food and Agricultural Code.
- (12) Section 52514 of the Food and Agricultural Code.

- (13) Section 53564 of the Food and Agricultural Code.
- (14) Section 53069.4 of the Government Code.
- (15) Section 53075.6 of the Government Code.
- (16) Section 53075.61 of the Government Code.
- (17) Section 5411.5 of the Public Utilities Code.
- (18) Section 9872.1 of the Vehicle Code.
- (19) Section 10751 of the Vehicle Code.
- (20) Section 14607.6 of the Vehicle Code.
- (21) Section 40230 of the Vehicle Code.
- (22) Section 40256 of the Vehicle Code.

Comment. Section 85 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It facilitates differentiation among civil cases for purposes such as determining original jurisdiction in a county in which there is a municipal court (see Section 85.1), applying economic litigation procedures (see Section 91), and defining appellate jurisdiction (see Sections 904.1, 904.2).

The amount in controversy requirement of subdivision (a) derives from the \$25,000 jurisdictional limit that applied to the municipal courts. *See, e.g.*, 2 B. Witkin, *California Procedure Courts* § 249, at 323-25 (4th ed. 1996). Now, a case is a limited civil case and subject to the procedures for a limited civil case only if the amount in controversy is \$25,000 or less. The last sentence of subdivision (a), defining “amount in controversy,” continues the former second sentence of Section 91 without change. For discussion of calculating amounts in controversy in cases involving multiple causes, see R. Weil & I. Brown, Jr., *California Practice Guide: Civil Procedure Before Trial, Jurisdiction and Venue* §§ 3:97-3:111, at 3-22 to 3-24 (1997); 2 B. Witkin, *California Procedure Jurisdiction* §§ 38-44, at 582-86 (4th ed. 1996).

Subdivision (b) reflects and preserves limitations on the types of equitable relief awardable in a municipal court. See Section 580 & Comment. Where a money judgment for \$25,000 or less would fully resolve a dispute and there is no need for a declaration of future rights, the case is a limited civil case despite a prayer for declaratory relief. See *Cardellini v. Casey*, 181 Cal. App. 3d 389, 396 (1986).

Subdivision (c) continues the effect of former law, under which each county had one or more municipal courts and a superior court. Causes like those now listed in subdivision (c) were within the original jurisdiction of the municipal court and subject to procedures now applicable to a limited civil case. Where a cause within the original jurisdiction of the municipal court was properly joined with one within the original jurisdiction of the superior court, the entire case would be tried in the superior court. *See, e.g.*, *Wiggins v. Washington Nat’l Life Ins. Co.*, 246 Cal. App. 2d 840, 847-48, 55 Cal. Rptr. 129 (1966) (“from the moment defendant filed its cross-complaint for declaratory relief in the instant action the municipal court lost jurisdiction over the cause and was obliged to

suspend further proceedings in the action and transfer it to the superior court”); *Armstrong v. Transcontinental Land & Water Co.*, 134 Cal. App. 2d Supp. 889, 285 P.2d 1031 (1955) (joinder of equitable cross-complaint compelled transfer of entire action to superior court). Subdivision (c) continues that policy by requiring that relief in a limited civil case be exclusively of a type described in one or more of the listed provisions, or an unlisted provision if the provision classifies the case as a limited civil case or places the case within the original jurisdiction of the municipal court. See, e.g., Section 688.010 (enforcement of state tax liability pursuant to warrant or notice of levy). If another type of cause is joined, the procedures for a limited civil case do not apply.

See Sections 22 (action defined), 23 (special proceeding defined).

§ 85.1. Original jurisdiction

85.1. Except as otherwise provided by statute, the municipal court, or the superior court in a county in which there is no municipal court, has original jurisdiction in a limited civil case.

Comment. Section 85.1 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). This section limits the original jurisdiction of the superior court in a county in which there is a municipal court. See Cal. Const. art. VI, § 10. Although Section 85.1 states the general rule, in some circumstances the municipal and superior courts may have concurrent jurisdiction. See, e.g., Section 688.010 (enforcement of state tax liability pursuant to warrant or notice of levy).

Code Civ. Proc. § 86 (amended) Miscellaneous limited civil cases

SEC. _____. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) ~~Each municipal court has original jurisdiction of civil cases and proceedings as follows~~ *The following civil cases and proceedings are limited civil cases:*

(1) ~~In all cases~~ *Cases* at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars (\$25,000) or less, ~~except. This paragraph does not apply to~~ cases that involve the legality of any tax, impost, assessment, toll, or municipal fine, ~~except the courts have jurisdiction in~~ actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) ~~In actions~~ *Actions* for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars (\$25,000); ~~in~~ actions of interpleader where the amount of

money or the value of the property involved does not exceed twenty-five thousand dollars (\$25,000).

(3) ~~In all actions~~ *Actions* to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding twenty-five thousand dollars (\$25,000) or property of a value not exceeding twenty-five thousand dollars (\$25,000), paid or delivered under, or in consideration of, the contract; ~~in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action~~ *otherwise is a limited civil case.*

(4) ~~In all proceedings~~ *Proceedings* in forcible entry or forcible or unlawful detainer where the whole amount of damages claimed is twenty-five thousand dollars (\$25,000) or less.

(5) ~~In all actions~~ *Actions* to enforce and foreclose liens on personal property where the amount of the liens is twenty-five thousand dollars (\$25,000) or less.

(6) ~~In all actions~~ *Actions* to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a common interest development as defined in Section 1351 of the Civil Code, where the amount of the liens is twenty-five thousand dollars (\$25,000) or less. However, where an action to enforce the lien is ~~pending in a municipal court, and affects property that is also affected by a similar action pending in a superior court~~ *pending action that is not a limited civil case*, or where the total amount of the liens sought to be foreclosed against the same property ~~by action or actions in a municipal court aggregates an amount in excess of twenty-five thousand dollars (\$25,000), the action is not a limited civil case, and if the action is pending in a municipal court, the municipal court in which the action or actions are pending,~~ upon motion of any interested party, *the municipal court* shall order the action or actions pending therein transferred to the proper superior court. Upon making the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) ~~In actions~~ *Actions* for declaratory relief when brought pursuant to either of the following:

(A) By way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding ~~otherwise within the jurisdiction of the municipal court that is otherwise a limited civil case.~~

(B) To conduct a trial after a nonbinding fee arbitration between an attorney and client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the amount in controversy is twenty-five thousand dollars (\$25,000) or less.

(8) ~~To~~ *Actions to* issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to ~~an action of which the court has jurisdiction a limited civil case;~~ to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments) *in a limited civil case;* to determine title to personal property seized in ~~an action pending in the court a limited civil case.~~

(9) ~~In all actions~~ *Actions* under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars (\$25,000) or the debt denied does not exceed twenty-five thousand dollars (\$25,000).

(10) ~~In all arbitration-related~~ *Arbitration-related* petitions filed pursuant to either of the following:

(A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if the petition is filed before the arbitration award becomes final and the matter to be resolved by arbitration is ~~within the jurisdiction of the municipal court a limited civil case~~ under paragraphs (1) to (9), inclusive, *of subdivision (a)* or ~~the petition if~~

the petition is filed after the arbitration award becomes final and the amount of the award and all other rulings, pronouncements, and decisions made in the award are within the jurisdiction of the municipal court under paragraphs (1) to (9), inclusive, of subdivision (a).

(B) To confirm, correct, or vacate a fee arbitration award between an attorney and client that is binding or has become binding, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the arbitration award is twenty-five thousand dollars (\$25,000) or less.

~~(11) In all actions to enforce restitution orders or restitution fines that were imposed by the municipal court.~~

~~(b) Each municipal court has jurisdiction of cases in equity as follows~~ *The following cases in equity are limited civil cases:*

~~(1) In all cases~~ *Cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars (\$25,000).*

~~(2) In all cases~~ *Cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal court that is otherwise a limited civil case.*

~~(3) To~~ *Cases to* vacate a judgment or order of the municipal court obtained *in a limited civil case* through extrinsic fraud, mistake, inadvertence, or excusable neglect.

~~(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.~~

~~(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977-78 Regular Session or the 1985-86 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.~~

Comment. Section 86 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

The matters listed in subdivisions (a) and (b) are not limited civil cases if the amount in controversy exceeds \$25,000. See Section 85. Formerly, each county had one or more municipal courts and a superior court, and the matters listed in Section 86(a)-(b) were within the original jurisdiction of the municipal court,

unless the amount in controversy exceeded \$25,000. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so subdivisions (a) and (b) as amended continue the effect of former law. See Section 85 (limited civil cases) & Comment.

Former subdivision (a)(11) is continued in Penal Code Section 1214, with modifications to accommodate trial court unification.

Former subdivision (c) is continued without substantive change in Section 580 (relief awardable in civil causes).

Former subdivision (d) is deleted as obsolete.

Code Civ. Proc. § 86.1 (amended). Long-Term Care, Health, Safety, and Security Act

SEC. _____. Section 86.1 of the Code of Civil Procedure is amended to read:

86.1. ~~In addition to Section 86, each municipal and justice court has original jurisdiction of civil cases and proceedings in actions~~ *An action* brought pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) *is a limited civil case* if civil penalties are not sought or amount to twenty-five thousand dollars (\$25,000) or less. ~~These actions~~ *An action brought in a municipal court* may be transferred to the superior court for consolidation with any other citation enforcement action pending in that court, on the motion of either party.

Comment. Section 86.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

An action pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973 is not a limited civil case if the amount in controversy exceeds \$25,000. See Section 85 (limited civil cases). Formerly, each county had one or more municipal courts and a superior court, and an action pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973 was within the original jurisdiction of the municipal court, unless the amount in controversy exceeded \$25,000. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 86.1 as amended continues the effect of former law. See Section 85 & Comment.

Code Civ. Proc. § 87 (repealed). Corporation as party

SEC. _____. Section 87 of the Code of Civil Procedure is repealed.

~~87. Where a corporation is a party in the municipal or justice court it may appear through a director, an officer, or an employee, whether or not such person is an attorney at law.~~

Comment. Section 87 is repealed as an unconstitutional intrusion on the power of a court to set minimum standards for who may appear in court on behalf of a corporation. *Merco Construction Engineers, Inc. v. Municipal Court*, 21 Cal. 3d 724, 581 P.2d 636, 147 Cal. Rptr. 631 (1978) (When “the matter at issue involves minimum standards for engaging in the practice of law, it is this court and not the Legislature which is final policy maker.”). *See also Say & Say, Inc. v. Ebershoff*, 20 Cal. App. 3d 1759, 25 Cal. Rptr. 2d 703, 709 (1993) (“A corporation can never appear in this or the superior court in civil or criminal litigation except in limited circumstances in some small claims litigation in *propria persona*.”); *Albion River Watershed Protection Ass’n v. Department of Forestry & Fire Protection*, 20 Cal. App. 3d 34, 24 Cal. Rptr. 2d 341, 343 (1993) (“It is settled that an unincorporated association must be represented by a person licensed in this state to practice law.”); *Clean Air Transport Systems v. San Mateo County Transit Dist.*, 198 Cal. App. 3d 576, 578-79, 243 Cal. Rptr. 799 (1988) (“A lay person who purports to represent a corporation is engaged in the unlawful practice of law.”).

Code Civ. Proc. § 88 (repealed). Clerks of justice courts

SEC. _____. Section 88 of the Code of Civil Procedure is repealed.

~~88. Clerks of justice courts, in addition to the other powers conferred upon them by law, shall have power to administer and certify oaths to affidavits, and all papers, documents or instruments used in, or in connection with, the civil actions or proceedings in such justice courts and to issue summons and other writs and notices in civil actions in said courts in the name of the judge before whom the same is pending or out of whose court the same is issued.~~

Comment. Section 88 is repealed to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 89 (repealed). Issuance of papers in blank

SEC. _____. Section 89 of the Code of Civil Procedure is repealed.

~~89. The summons, execution, and every other paper made or issued by a judge of a justice court, except a subpoena, must be issued without a blank left to be filled by another, otherwise it is void.~~

Comment. Section 89 is repealed to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Article 2 (commencing with Section 90) (amended)

SEC. _____. The heading of Article 2 (commencing with Section 90) of Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure is amended to read:

Article 2. Economic Litigation for ~~Municipal and~~
Justice Courts *Limited Civil Cases*

Comment. The heading “Article 2. Economic Litigation for Municipal and Justice Courts” is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

New Chapter 5.1 (“Limited Civil Cases”) (commencing with Section 85) of Title 1 of Part 1 is now divided into two articles: “Article 1. Jurisdiction in Limited Civil Cases” (commencing with Section 85) and “Article 2. Economic Litigation for Limited Civil Cases.”

Code Civ. Proc. § 91 (amended). Application of economic litigation procedures

SEC. _____. Section 91 of the Code of Civil Procedure is amended to read:

91. (a) Except as otherwise provided in this section, the provisions of this article apply to every ~~municipal and justice court civil action, including cases submitted to arbitration or on the arbitration hearing list, pending in the municipal and justice courts, on or after July 1, 1983, in which the amount in controversy is twenty-five thousand dollars (\$25,000) or less.~~ “Amount in controversy” means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, which is in controversy in the action, exclusive of attorney fees, interest, and costs. These provisions also apply to any action transferred to a municipal or justice court by reason of lack of jurisdiction in the court in which it was filed *limited civil case*.

(b) The provisions of this article do not apply to any action under Chapter 5A 5.5 (commencing with Section 446 116.110) or any proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3.

(c) Any action may, upon noticed motion, be withdrawn from the provisions of this article, upon a showing that it is impractical to prosecute or defend the action within the limitations of these provisions.

~~(d) Special demurrers, motions to strike, and requests for discovery, pending or determined prior to July 1, 1983, shall be subject to the law in effect on June 30, 1983.~~

Comment. Subdivision (a) of Section 91 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Formerly, each county had one or more municipal courts and a superior court, and economic litigation procedures applied to cases tried in the municipal courts. Now, the matters formerly triable in those courts are classified as limited civil cases. See Section 85 (limited civil cases) & Comment. By making economic litigation procedures applicable to limited civil cases, Section 91 continues the effect of former law. The former second sentence of subdivision (a), defining “amount in controversy,” is continued without substantive change in Section 85.

Subdivision (b) is amended to delete the reference to former Chapter 5A (commencing with Section 116), which has been repealed. Instead, subdivision (b) now refers to Chapter 5.5 (commencing with Section 116.110), which contains the current small claims provisions.

Subdivision (d) is deleted as obsolete.

Code Civ. Proc. § 116.120 (amended). Legislative findings and declaration

SEC. _____. Section 116.120 of the Code of Civil Procedure is amended to read:

116.120. The Legislature hereby finds and declares as follows:

(a) Individual minor civil disputes are of special importance to the parties and of significant social and economic consequence collectively.

(b) In order to resolve minor civil disputes expeditiously, inexpensively, and fairly, it is essential to provide a judicial forum accessible to all parties directly involved in resolving these disputes.

(c) The small claims divisions of ~~municipal and justice courts~~ have been established to provide a forum to resolve minor civil disputes, and for that reason constitute a fundamental element in the administration of justice and the protection of the rights and property of individuals.

(d) The small claims divisions ~~of justice and municipal courts~~, the provisions of this chapter, and the rules of the Judicial Council regarding small claims actions shall operate to ensure that the convenience of parties and witnesses who are individuals shall prevail, to the extent possible, over the convenience of any other parties or witnesses.

Comment. Section 116.120 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 116.210 (amended). Small claims division

SEC. _____. Section 116.210 of the Code of Civil Procedure is amended to read:

116.210. In each ~~justice court and each~~ municipal court *and each superior court in a county in which there is no municipal court*, there shall be a small claims division. *The small claims division may be known as the small claims court.*

Comment. Section 116.210 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Section 116.210 is also amended to expressly authorize continued use of the name “small claims court,” even though the small claims division is not a separate court.

Code Civ. Proc. § 116.231 (amended). Limitation on number of actions filed each year

SEC. _____. Section 116.231 of the Code of Civil Procedure is amended to read:

116.231. (a) Except as provided in subdivision (d), no person may file more than two small claims actions in which the amount demanded exceeds two thousand five hundred dollars (\$2,500), anywhere in the state in any calendar year.

(b) Except as provided in subdivision (d), if the amount demanded in any small claims action exceeds two thousand five hundred dollars (\$2,500), the party making the demand shall file a declaration under penalty of perjury attesting to the fact that not more than two small claims actions in which the amount of the

demand exceeded two thousand five hundred dollars (\$2,500) have been filed by that party in this state within the calendar year.

(c) The Legislature finds and declares that the pilot project conducted under the authority of Chapter 1196 of the Statutes of 1991 demonstrated the efficacy of the removal of the limitation on the number of actions public entities may file in the small claims courts on claims exceeding two thousand five hundred dollars (\$2,500).

(d) The limitation on the number of filings exceeding two thousand five hundred dollars (\$2,500) does not apply to filings where the claim does not exceed five thousand dollars (\$5,000) which are filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity. If any small claims action is filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity pursuant to this section, and the defendant informs the court either in advance of the hearing by written notice or at the time of the hearing, that he or she is represented in the action by legal counsel, the action shall be transferred to the municipal court *out of the small claims division*. A city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity may not file a claim within the small claims division if the amount of the demand exceeds five thousand dollars (\$5,000).

Comment. Section 116.231 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Code Civ. Proc. § 116.250 (amended). Court sessions

SEC. _____. Section 116.250 of the Code of Civil Procedure is amended to read:

116.250. (a) Sessions of the small claims court may be scheduled at any time and on any day, including Saturdays, but excluding other judicial holidays. They may also be scheduled at any public building within the judicial district, including places outside the courthouse.

(b) Each small claims division of a municipal court with four or more judicial officers, *and each small claims division of a superior court with seven or more judicial officers*, shall conduct at least one night session or Saturday session each month *for the purpose of hearing small claims cases other than small claims appeals*. The term “session” includes, but is not limited to, a proceeding conducted by a member of the State Bar acting as a mediator or referee.

Comment. Section 116.250 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). For guidance in applying Section 116.250, see Section 38 (judicial districts) & Comment.

Code Civ. Proc. § 116.760 (amended). Filing fee

SEC. _____. Section 116.760 of the Code of Civil Procedure is amended to read:

116.760. (a) The appealing party shall pay the same superior court filing fee that is required for an appeal of a ~~civil action from a justice or municipal court~~ *limited civil case*.

(b) A party who does not appeal shall not be charged any fee for filing any document ~~in the superior court~~ *relating to the appeal*.

Comment. Section 116.760 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Under subdivision (a), the fee for appealing from a small claims judgment is the same as the fee for an appeal to the appellate division of the superior court, which is specified in Section 26824 of the Government Code.

Subdivision (b) is amended to reflect relocation of the small claims division from the municipal court to the superior court in a county in which the municipal and superior courts unify their operations. Because the small claims division is in the same court that hears small claims appeals, subdivision (b) extends only to documents relating to the appeal, not to all documents filed in superior court.

Code Civ. Proc. § 116.770 (amended). Hearing de novo

SEC. _____. Section 116.770 of the Code of Civil Procedure is amended to read:

116.770. (a) The appeal to the superior court shall consist of a new hearing *before a judicial officer other than the judicial officer who heard the action in the small claims division*.

(b) The hearing on an appeal to the superior court shall be conducted informally. The pretrial discovery procedures described in subdivision (a) of Section 2019 are not permitted, no party has a right to a trial by jury, and no tentative decision or statement of decision is required.

(c) Article 5 (commencing with Section 116.510) on hearings in the small claims court applies in hearings on appeal in the superior court, except that attorneys may participate.

(d) The scope of the hearing shall include the claims of all parties who were parties to the small claims action at the time the notice of appeal was filed. The hearing shall include the claim of a defendant which was heard in the small claims court.

(e) The clerk of the superior court shall schedule the hearing for the earliest available time and shall mail written notice of the hearing to the parties at least 14 days prior to the time set for the hearing.

(f) The Judicial Council may prescribe by rule the practice and procedure on appeal and the time and manner in which the record on appeal shall be prepared and filed.

Comment. Section 116.770 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Code Civ. Proc. § 116.940 (amended). Advisory services

SEC. _____. Section 116.940 of the Code of Civil Procedure is amended to read:

116.940. (a) Except as otherwise provided in this section or in rules adopted by the Judicial Council, the characteristics of the small claims advisory service required by Section 116.260 shall be determined by each county in accordance with local needs and conditions.

(b) Each advisory service shall provide the following services:

(1) Individual personal advisory services, in person or by telephone, and by any other means reasonably calculated to provide timely and appropriate assistance.

(2) Recorded telephone messages may be used to supplement the individual personal advisory services, but shall not be the sole means of providing advice available in the county.

(3) Adjacent counties may provide advisory services jointly.

(c) In any county in which the number of small claims actions filed annually is 1,000 or less as averaged over the immediately preceding two fiscal years, the county may elect to exempt itself from the requirements set forth in subdivision (b). This exemption shall be formally noticed through the adoption of a resolution by the board of supervisors. If a county so exempts itself, the county shall nevertheless provide the following minimum advisory services in accordance with rules adopted by the Judicial Council:

(1) Recorded telephone messages providing general information relating to small claims actions filed in the county shall be provided during regular business hours.

(2) Small claims information booklets shall be provided in each ~~municipal and justice court clerk's office~~, *the court clerk's office of each municipal court, the court clerk's office of each superior court in a county in which there is no municipal court*, the county administrator's office, other appropriate county offices, and in any other location that is convenient to prospective small claims litigants in the county.

(d) The advisory service shall operate in conjunction and cooperation with the small claims division, and shall be administered so as to avoid the existence or appearance of a conflict of interest between the individuals providing the advisory services and any party to a particular small claims action or any judicial officer deciding small claims actions.

(e) Advisors may be volunteers, and shall be members of the State Bar, law students, paralegals, or persons experienced in resolving minor disputes, and shall be familiar with small claims court rules and procedures. Advisors shall not appear in court as an advocate for any party.

(f) Advisors and other court employees and volunteers have the immunity conferred by Section 818.9 of the Government Code with respect to advice provided under this chapter.

Comment. Section 116.940 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court, Cal. Const. art. VI, §§ 1, 5(b).

**Code Civ. Proc. § 116.950 (amended). Advisory committee;
operation of section**

SEC. _____. Section 116.950 of the Code of Civil Procedure is amended to read:

116.950. (a) This section shall become operative only if the Department of Consumer Affairs determines that sufficient private or public funds are available in addition to the funds available in the department's current budget to cover the costs of implementing this section.

(b) There shall be established an advisory committee, constituted as set forth in this section, to study small claims practice and procedure, with particular attention given to the improvement of procedures for the enforcement of judgments.

(c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties. The advisory committee shall report its findings and recommendations to the Judicial Council and the Legislature.

(d) The advisory committee shall be composed as follows:

(1) The Attorney General or a representative.

(2) Two consumer representatives from consumer groups or agencies, appointed by the Secretary of the State and Consumer Services Agency.

(3) One representative appointed by the Speaker of the Assembly and one representative appointed by the President pro Tempore of the Senate.

(4) Two representatives, appointed by the Board of Governors of the State Bar.

(5) Two representatives of the business community, appointed by the Secretary of the Trade and Commerce Agency.

(6) Six judges of the municipal court ~~or justice court~~, *or of the superior court in a county in which there is no municipal court*, who have had extensive experience as judges of small claims court, appointed by the Judicial Council.

(7) One representative appointed by the Governor.

(8) Two clerks of the court, appointed by the Judicial Council.

(e) Staff assistance to the advisory committee shall be provided by the Department of Consumer Affairs, with the assistance of the Judicial Council, as needed.

Comment. Section 116.950 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court, Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 134 (amended). Court closure on judicial holidays

SEC. _____. Section 134 of the Code of Civil Procedure is amended to read:

134. (a) Except as provided in subdivision (c), the courts shall be closed for the transaction of judicial business on judicial holidays for all but the following purposes:

(1) To give, upon their request, instructions to a jury when deliberating on their verdict.

(2) To receive a verdict or discharge a jury.

(3) For the conduct of arraignments and the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature.

(4) For the conduct of Saturday small claims court sessions pursuant to the Small Claims Act set forth in Chapter 5.5 (commencing with Section 116.110).

(b) Injunctions and writs of prohibition may be issued and served on any day.

(c) In any superior, ~~municipal, or justice~~ *or municipal* court, one or more departments of the court may remain open and in session for the transaction of any business which may come before the department in the exercise of the civil or criminal jurisdiction of the court, or both, on a judicial holiday or at any hours of the day or night, or both, as the judges of the court prescribe.

(d) The fact that a court is open on a judicial holiday shall not make that day a nonholiday for purposes of computing the time required for the conduct of any proceeding nor for the performance of any act. Any paper lodged with the court at a time when the court is open pursuant to subdivision (c), shall be filed by the court on the next day which is not a judicial holiday, if the document meets appropriate criteria for filing.

Comment. Section 134 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 166 (amended). Judges of municipal and superior courts

SEC. _____. Section 166 of the Code of Civil Procedure is amended to read:

166. (a) The judge or judges of the superior, ~~municipal and justice and municipal~~ courts may, in chambers, in the matters within the jurisdiction of their respective courts:

(1) Grant all orders and writs which are usually granted in the first instance upon an ex parte application, and hear and dispose of those orders and writs, appoint referees, require and receive inventories and accounts to be filed, order notice of settlement of supplemental accounts, suspend the powers of personal representatives, guardians, or conservators in the cases allowed by law, appoint special administrators, grant letters of temporary guardianship or conservatorship, approve or reject claims, and direct the issuance from the court of all writs and process necessary in the exercise of their powers in matters of probate.

(2) Hear and determine all motions made pursuant to Section 657 or 663.

(3) Hear and determine all uncontested actions, proceedings, demurrers, motions, petitions, applications, and other matters pending before the court other than actions for dissolution of marriage, for legal separation, or for a judgment of nullity of the marriage, and except also applications for confirmation of sale of real property in probate proceedings.

(4) Hear and determine motions to tax costs of enforcing a judgment.

(5) Approve bonds and undertakings.

(b) A judge may, out of court, anywhere in the state, exercise all the powers and perform all the functions and duties conferred upon a judge as contradistinguished from the court, or which a judge may exercise or perform in chambers.

Comment. Section 166 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 170.5 (amended). Definitions

SEC. _____. Section 170.5 of the Code of Civil Procedure is amended to read:

170.5. For the purposes of Sections 170 to 170.5, inclusive, the following definitions apply:

(a) “Judge” means judges of the ~~justice, municipal,~~ *municipal* and superior courts, and court commissioners and referees.

(b) “Financial interest” means ownership of more than a 1 percent legal or equitable interest in a party, or a legal or equitable interest in a party of a fair market value in excess of one thousand five hundred dollars (\$1,500), or a relationship as director, advisor or other active participant in the affairs of a party, except as follows:

(1) Ownership in a mutual or common investment fund that holds securities is not a “financial interest” in those securities unless the judge participates in the management of the fund.

(2) An office in an educational, religious, charitable, fraternal, or civic organization is not a “financial interest” in securities held by the organization.

(3) The proprietary interest of a policyholder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a “financial interest” in the organization only if the outcome of the proceeding could substantially affect the value of the interest.

(c) “Officer of a public agency” does not include a Member of the Legislature or a state or local agency official acting in a legislative capacity.

(d) The third degree of relationship shall be calculated according to the civil law system.

(e) “Private practice of law” includes a fee for service, retainer, or salaried representation of private clients or public agencies, but excludes lawyers as full-time employees of public agencies or lawyers working exclusively for legal aid offices, public defender offices, or similar nonprofit entities whose clientele is by law restricted to the indigent.

(f) “Proceeding” means the action, case, cause, motion, or special proceeding to be tried or heard by the judge.

(g) “Fiduciary” includes any executor, trustee, guardian, or administrator.

Comment. Section 170.5 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 170.6 (amended). Prejudice against party or attorney

SEC. _____. Section 170.6 of the Code of Civil Procedure is amended to read:

170.6. (1) No judge, court commissioner, or referee of any superior, ~~municipal or justice~~ or *municipal* court of the State of California shall try any civil or criminal action or special proceeding of any kind or character nor hear any matter therein which involves a contested issue of law or fact when it shall be established as hereinafter provided that the judge or court commissioner is prejudiced against any party or attorney or the interest of any party or attorney appearing in the action or proceeding.

(2) Any party to or any attorney appearing in any such action or proceeding may establish this prejudice by an oral or written motion without notice supported by affidavit or declaration under penalty of perjury or an oral statement under oath that the judge, court commissioner, or referee before whom the action or proceeding is pending or to whom it is assigned is prejudiced against any such party or attorney or the interest of the party or attorney so that the party or attorney cannot or believes that he or she cannot have a fair and impartial trial or hearing before the judge, court commissioner, or referee. Where the judge, other than a judge assigned to the case for all purposes, court commissioner, or referee assigned to or who is scheduled to try the cause or hear the matter is known at least 10 days before the date set for trial or hearing, the motion shall be made at least five days before that date. If directed to the trial of a cause where there is a master calendar, the motion shall be made to the judge supervising the master calendar not later than the time the cause is assigned for trial. If directed to the trial of a cause which has been assigned to a judge for all purposes, the motion shall be made to the assigned judge or to the presiding judge by a party within 10 days after

notice of the all purpose assignment, or if the party has not yet appeared in the action, then within 10 days after the appearance. If the court in which the action is pending is authorized to have no more than one judge and the motion claims that the duly elected or appointed judge of that court is prejudiced, the motion shall be made before the expiration of 30 days from the date of the first appearance in the action of the party who is making the motion or whose attorney is making the motion. In no event shall any judge, court commissioner, or referee entertain the motion if it be made after the drawing of the name of the first juror, or if there be no jury, after the making of an opening statement by counsel for plaintiff, or if there is no such statement, then after swearing in the first witness or the giving of any evidence or after trial of the cause has otherwise commenced. If the motion is directed to a hearing (other than the trial of a cause), the motion shall be made not later than the commencement of the hearing. In the case of trials or hearings not herein specifically provided for, the procedure herein specified shall be followed as nearly as may be. The fact that a judge, court commissioner, or referee has presided at or acted in connection with a pretrial conference or other hearing, proceeding or motion prior to trial and not involving a determination of contested fact issues relating to the merits shall not preclude the later making of the motion provided for herein at the time and in the manner hereinbefore provided.

A motion under this paragraph may be made following reversal on appeal of a trial court's decision if the trial judge in the prior proceeding is assigned to conduct a new trial on the matter. The motion shall be made within 60 days after the party or the party's attorney has been notified of the assignment.

(3) If the motion is duly presented and the affidavit or declaration under penalty of perjury is duly filed or such oral statement under oath is duly made, thereupon and without any further act or proof, the judge supervising the master calendar, if any, shall assign some other judge, court commissioner, or referee to try the cause or hear the matter. In other cases, the trial of the cause or the hearing of the matter shall be assigned or transferred to another judge, court commissioner, or referee of the court in

which the trial or matter is pending or, if there is no other judge, court commissioner, or referee of the court in which the trial or matter is pending, the Chairman of the Judicial Council shall assign some other judge, court commissioner, or referee to try the cause or hear the matter as promptly as possible. Under no circumstances shall a party or attorney be permitted to make more than one such motion in any one action or special proceeding pursuant to this section; and in actions or special proceedings where there may be more than one plaintiff or similar party or more than one defendant or similar party appearing in the action or special proceeding, only one motion for each side may be made in any one action or special proceeding.

(4) Unless required for the convenience of the court or unless good cause is shown, a continuance of the trial or hearing shall not be granted by reason of the making of a motion under this section. If a continuance is granted, the cause or matter shall be continued from day to day or for other limited periods upon the trial or other calendar and shall be reassigned or transferred for trial or hearing as promptly as possible.

(5) Any affidavit filed pursuant to this section shall be in substantially the following form:

(Here set forth court and cause)

State of California,
County of

ss.

PEREMPTORY
CHALLENGE

_____, being duly sworn, deposes and says: That he or she is a party (or attorney for a party) to the within action (or special proceeding). That _____ the judge, court commissioner, or referee before whom the trial of the (or a hearing in the) aforesaid action (or special proceeding) is pending (or to whom it is assigned), is prejudiced against the party (or his or her attorney) or the interest of the party (or his or her attorney) so that affiant cannot or believes that he or she cannot have a fair and impartial trial or hearing before the judge, court commissioner, or referee.

Subscribed and sworn to before me this
_____ day of _____, 19__.

(Clerk or notary public or other
officer administering oath)

(6) Any oral statement under oath or declaration under penalty of perjury made pursuant to this section shall include substantially the same contents as the affidavit above.

(7) Nothing in this section shall affect or limit the provisions of Section 170 and Title 4, Part 2, of this code and this section shall be construed as cumulative thereto.

(8) If any provision of this section or the application to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are declared to be severable.

Comment. Subdivision (1) of Section 170.6 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 170.7 (amended). Judge serving on appellate division

SEC. _____. Section 170.7 of the Code of Civil Procedure is amended to read:

170.7. Section 170.6 does not apply to a judge designated or assigned to serve on the appellate ~~department~~ *division* of a superior court in his ~~the judge's~~ capacity as a judge of such ~~department~~ *that division*.

Comment. Section 170.7 is amended to refer more precisely to the appellate division. See Cal. Const. art. VI, § 4.

Code Civ. Proc. § 179 (amended). Taking and certifying acknowledgments, affidavits, or depositions

SEC. _____. Section 179 of the Code of Civil Procedure is amended to read:

179. Each of the justices of the Supreme Court and of any court of appeal and the judges of the superior courts, shall have power in any part of the state, and every municipal court judge and judge of

a ~~justice court~~ shall have power within the county or city and county in which ~~he~~ *the judge* is elected or appointed, to take and certify:

1. The proof and acknowledgment of a conveyance of real property, or of any other written instrument.

2. The acknowledgment of satisfaction of a judgment of any court.

3. An affidavit or deposition to be used in this state.

Comment. Section 179 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 194 (amended). Definitions

SEC. _____. Section 194 of the Code of Civil Procedure is amended to read:

194. The following definitions govern the construction of this chapter:

(a) “County” means any county or any coterminous city and county.

(b) “Court” means the superior, ~~municipal, and justice~~ *and municipal* courts of this state, and includes, when the context requires, any judge of the court.

(c) “Deferred jurors” are those prospective jurors whose request to reschedule their service to a more convenient time is granted by the jury commissioner.

(d) “Excused jurors” are those prospective jurors who are excused from service by the jury commissioner for valid reasons based on statute, state or local court rules, and policies.

(e) “Juror pool” means the group of prospective qualified jurors appearing for assignment to trial jury panels.

(f) “Jury of inquest” is a body of persons summoned from the citizens before the sheriff, coroner, or other ministerial officers, to inquire of particular facts.

(g) “Master list” means a list of names randomly selected from the source lists.

(h) “Potential juror” means any person whose name appears on a source list.

(i) “Prospective juror” means a juror whose name appears on the master list.

(j) “Qualified juror” means a person who meets the statutory qualifications for jury service.

(k) “Qualified juror list” means a list of qualified jurors.

(l) “Random” means that which occurs by mere chance indicating an unplanned sequence of selection where each juror’s name has substantially equal probability of being selected.

(m) “Source list” means a list used as a source of potential jurors.

(n) “Summons list” means a list of prospective or qualified jurors who are summoned to appear or to be available for jury service.

(o) “Trial jurors” are those jurors sworn to try and determine by verdict a question of fact.

(p) “Trial jury” means a body of persons selected from the citizens of the area served by the court and sworn to try and determine by verdict a question of fact.

(q) “Trial jury panel” means a group of prospective jurors assigned to a courtroom for the purpose of voir dire.

Comment. Subdivision (b) of Section 194 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 195 (amended). Jury commissioners

SEC. _____. Section 195 of the Code of Civil Procedure is amended to read:

195. (a) In each county, there shall be one jury commissioner who shall be appointed by, and serve at the pleasure of, a majority of the judges of the superior court. In any county where there is a superior court administrator or executive officer, that person shall serve as ex officio jury commissioner. The person so appointed shall serve as jury commissioner for all trial courts within the county. In any municipal ~~or justice~~ court district in the county, a majority of the judges may appoint the clerk/administrator to select jurors for their court pursuant to this chapter. In any court jurisdiction where any person other than a court administrator or clerk/administrator is serving as jury commissioner on the effective date of this section, that person shall continue to so serve at the pleasure of a majority ~~or of~~ the judges of the appointing court.

(b) Except where the superior court administrator or executive officer serves as ex officio jury commissioner, the jury commissioner's salary shall be set by joint action of the board of supervisors and a majority of the superior court judges. Any jury commissioner may, whenever the business of court requires, and with consent of the board of supervisors, appoint deputy jury commissioners. Salaries and benefits of such deputies shall be fixed in the same manner as salaries and benefits of other court employees.

(c) The jury commissioner shall be primarily responsible for managing the jury system under the general supervision of the court in conformance with the purpose and scope of this act. He or she shall have authority to establish policies and procedures necessary to fulfill this responsibility.

Comment. Section 195 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 198.5 (amended). Superior court venires in judicial districts

SEC. _____. Section 198.5 of the Code of Civil Procedure is amended to read:

198.5. *In (a) Except as provided in subdivision (b), in counties where sessions of the superior court are held in cities other than the county seat, the names for master jury lists and qualified jury lists to serve in those cities may be selected from the judicial district in which the city is located and, if the judges of the court determine that it is necessary or advisable, from a judicial district adjacent to a judicial district in which the city is located.*

(b) In a county in which there is no municipal court, if sessions of the superior court are held in a location other than the county seat, the names for master jury lists and qualified jury lists to serve in a session may be selected from the area in which the session is held, pursuant to a local superior court rule that divides the county in a manner that provides all qualified persons in the county an equal opportunity to be considered for jury service.

Comment. Section 198.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Subdivision (b) is drawn from Section 191 (policy of state to select jury from

population of area served by court; all qualified persons to have an equal opportunity to be considered for jury service). A local rule promulgated pursuant to subdivision (b) may differentiate between misdemeanors and limited civil cases, on the one hand, and felonies and civil cases other than limited civil cases, on the other. See Code Civ. Proc. § 85 (limited civil cases) & Comment; Penal Code § 691 (definitions) & Comment.

Code Civ. Proc. § 200 (amended). Jury pool

SEC. _____. Section 200 of the Code of Civil Procedure is amended to read:

200. Except in Alameda County, when authorized by local superior court rules, a municipal ~~or justice~~ court district pursuant to duly adopted court rule may use the same juror pool as that summoned for use in the superior court. Persons so selected for jury service in those municipal ~~or justice~~ courts need not be residents of the judicial district. In Los Angeles County, the municipal courts shall use the same jury pool as that summoned for use in the superior court.

Comment. Section 200 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 215 (amended). Fees and mileage for jurors

SEC. _____. Section 215 of the Code of Civil Procedure is amended to read:

215. Unless a higher fee is provided for each day's attendance by county or city and county ordinance, the fee for jurors in the superior, ~~municipal, and justice~~ *and municipal* courts, in civil and criminal cases, is five dollars (\$5) a day for each day's attendance as a juror. Unless a higher rate of mileage is otherwise provided by statute or by county or city and county ordinance, jurors in the superior, ~~municipal, and justice~~ *and municipal* courts shall be reimbursed for mileage at the rate of fifteen cents (\$0.15) per mile for each mile actually traveled in attending court as a juror, in going only.

(b) In criminal cases, the board of supervisors of each county shall make sufficient appropriations for the payment of the fees provided for in this section.

Comment. Subdivision (a) of Section 215 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 217 (amended). Jurors in criminal cases

SEC. _____. Section 217 of the Code of Civil Procedure is amended to read:

217. In criminal cases only, while the jury is kept together, either during the progress of the trial or after their retirement for deliberation, the court may direct the sheriff or marshal to provide the jury with suitable and sufficient food and lodging, or other reasonable necessities. In the superior, ~~municipal~~, and justice *and municipal* courts, the expenses incurred under the provisions of this section shall be charged against the county or city and county in which the court is held. All those expenses shall be paid on the order of the court.

Comment. Section 217 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§1, 5(b).

Code Civ. Proc. § 234 (amended). Alternate jurors

SEC. _____. Section 234 of the Code of Civil Procedure is amended to read:

234. Whenever, in the opinion of a judge of a superior, ~~municipal~~, or justice *or municipal* court about to try a civil or criminal action or proceeding, the trial is likely to be a protracted one, or upon stipulation of the parties, the court may cause an entry to that effect to be made in the minutes of the court and thereupon, immediately after the jury is impaneled and sworn, the court may direct the calling of one or more additional jurors, in its discretion, to be known as “alternate jurors.”

These alternate jurors shall be drawn from the same source, and in the same manner, and have the same qualifications, as the jurors already sworn, and shall be subject to the same examination and challenges. However, each side, or each defendant, as provided in Section 231, shall be entitled to as many peremptory challenges to the alternate jurors as there are alternate jurors called.

The alternate jurors shall be seated so as to have equal power and facilities for seeing and hearing the proceedings in the case, and shall take the same oath as the jurors already selected, and shall, unless excused by the court, attend at all times upon the trial of the cause in company with the other jurors, but shall not participate in

deliberation unless ordered by the court, and for a failure to do so are liable to be punished for contempt.

They shall obey the orders of and be bound by the admonition of the court, upon each adjournment of the court; but if the regular jurors are ordered to be kept in the custody of the sheriff or marshal during the trial of the cause, the alternate jurors shall also be kept in confinement with the other jurors; and upon final submission of the case to the jury, the alternate jurors shall be kept in the custody of the sheriff or marshal who shall not suffer any communication to be made to them except by order of the court, and shall not be discharged until the original jurors are discharged, except as provided in this section.

If at any time, whether before or after the final submission of the case to the jury, a juror dies or becomes ill, or upon other good cause shown to the court is found to be unable to perform his or her duty, or if a juror requests a discharge and good cause appears therefor, the court may order the juror to be discharged and draw the name of an alternate, who shall then take his or her place in the jury box, and be subject to the same rules and regulations as though he or she has been selected as one of the original jurors.

All laws relative to fees, expenses, and mileage or transportation of jurors shall be applicable to alternate jurors, except that in civil cases the sums for fees and mileage or transportation need not be deposited until the judge directs alternate jurors to be impaneled.

Comment. Section 234 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 269 (amended). Record on appeal

SEC. _____. Section 269 of the Code of Civil Procedure is amended to read:

269. (a) The official reporter of a superior court, or any of them, where there are two or more, shall, at the request of either party, or of the court in a civil ~~action or proceeding~~ *case other than a limited civil case*, and on the order of the court, the district attorney, or the attorney for the defendant in a ~~criminal action or proceeding~~ *felony case*, take down in shorthand all testimony, objections made, rulings of the court, exceptions taken, all arraignments, pleas, and

sentences of defendants in ~~criminal~~ *felony* cases, arguments of the prosecuting attorney to the jury, and all statements and remarks made and oral instructions given by the judge. If directed by the court, or requested by either party, the official reporter shall, within such reasonable time after the trial of the case as the court may designate, write the transcripts out, or the specific portions thereof as may be requested, in plain and legible longhand, or by typewriter, or other printing machine, and certify that the transcripts were correctly reported and transcribed, and when directed by the court, file the transcripts with the clerk of the court.

(b) In any case where a defendant is convicted of a felony, after a trial on the merits, the record on appeal shall be prepared immediately after the verdict or finding of guilt is announced unless the court determines that it is likely that no appeal from the decision will be made. The court's determination of a likelihood of appeal shall be based upon standards and rules adopted by the Judicial Council.

(c) Any court, party, or person may request delivery of any transcript in a computer-readable form, except that an original transcript shall be on paper. A copy of the original transcript ordered within 120 days of the filing or delivery of the transcript by the official reporter shall be delivered in computer-readable form upon request if the proceedings were produced utilizing computer-aided transcription equipment. Except as modified by standards adopted by the Judicial Council, the computer-readable transcript shall be on disks in standard ASCII code unless otherwise agreed by the reporter and the court, party, or person requesting the transcript. Each disk shall be labeled with the case name and court number, the dates of proceedings contained on the disk, and the page and volume numbers of the data contained on the disk. Each disk as produced by the court reporter shall contain the identical volume divisions, pagination, line numbering, and text of the certified original paper transcript or any portion thereof. Each disk shall be sequentially numbered within the series of disks.

Comment. Section 269 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 274a (amended). Transcription at judge's request

SEC. _____. Section 274a of the Code of Civil Procedure is amended to read:

274a. Judges of the superior court may have any opinion given or rendered by such judge in the trial of ~~any action or proceeding a felony case or a civil case other than a limited civil case~~, pending in such court, or any necessary order, petition, citation, commitment or judgment in any probate proceeding, proceeding concerning new or additional bonds of county officials or juvenile court proceeding, or necessary order, petition, citation, commitment, or oral testimony or judgment in any insanity proceeding or proceedings relative to an alleged feeble-minded person, or the testimony or judgment relating to the custody or support of minor children in any proceeding in which the custody or support of minor children is involved, taken down in shorthand and transcribed together with such copies as the court may deem necessary by the official reporter of such court, but if there be no official reporter for such court, then by any competent stenographer; the cost thereof shall be a legal charge against the county, payable out of the county treasury, except the fee for reporting and transcribing in any civil action or proceeding or in any probate proceeding, in the manner set forth in Sections 69947 to 69953, inclusive, of the Government Code.

Comment. Section 274a is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 274c (amended). Official reporters of municipal courts

SEC. _____. Section 274c of the Code of Civil Procedure is amended to read:

274c. Official reporters of ~~a municipal or justice court, or any one of them~~, must, at the request of either party or of the court in a ~~civil proceeding~~ *limited civil case*, or on the order of the court in a ~~criminal action or proceeding~~ *misdemeanor or infraction case*, take down in shorthand all the testimony, the objections made, the rulings of the court, the exceptions taken, all arraignments, pleas and sentences of defendants in criminal cases, the arguments of the

prosecuting attorney to the jury, and all statements and remarks made and oral instructions given by the judge; and if directed by the court, or requested by either party, must, within such reasonable time after the trial of such case as the court may designate, write out the same, or such specific portions thereof as may be requested, in plain and legible longhand, or by typewriter, or other printing machine, and certify to the same as being correctly reported and transcribed, and when directed by the court, file the same with the clerk of the court.

Comment. Section 274c is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

See Section 85 (limited civil cases) & Comment; Penal Code § 691 (misdemeanor or infraction case).

Code Civ. Proc. § 392 (amended). Real property actions

SEC. _____. Section 392 of the Code of Civil Procedure is amended to read:

392. (1) Subject to the power of the court to transfer actions and proceedings as provided in this title, the county in which the real property, which is the subject of the action, or some part thereof, is situated, is the proper county for the trial of the following actions:

(a) For the recovery of real property, or of an estate or interest therein, or for the determination in any form, of such right or interest, and for injuries to real property;

(b) For the foreclosure of all liens and mortgages on real property.

(2) The proper court for the trial of any such action, in the county hereinabove designated as the proper county, shall be determined as follows:

If there is a municipal ~~or justice~~ court, having jurisdiction of the subject matter of the action, established in the city and county or judicial district in which the real property which is the subject of the action, or some part thereof, is situated, such court is the proper court for the trial of such action; otherwise any court in such county having jurisdiction of the subject matter of the action, is a proper court for the trial thereof.

Comment. Section 392 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Code Civ. Proc. § 393 (amended). Action for penalty or forfeiture or against public officer

SEC. _____. Section 393 of the Code of Civil Procedure is amended to read:

393. (1) Subject to the power of the court to transfer actions and proceedings as provided in this title, the county in which the cause, or some part thereof, arose, is the proper county for the trial of the following actions:

(a) For the recovery of a penalty or forfeiture imposed by statute; except, that when it is imposed for an offense committed on a lake, river, or other stream of water, situated in two or more counties, the action may be tried in any county bordering on such lake, river, or stream, and opposite to the place where the offense was committed;

(b) Against a public officer or person especially appointed to execute ~~his duties~~ *the duties of a public officer*, for an act done by ~~him~~ *the officer or person* in virtue of ~~his~~ *the* office; or against a person who, by ~~his~~ *the officer's* command or in ~~his~~ *the officer's* aid, does anything touching the duties of such officer.

(2) The proper court for the trial of any such action, in the county hereinabove designated as the proper county, shall be determined as follows:

If there is a municipal ~~or justice~~ court, having jurisdiction of the subject matter of the action, established in the city and county or judicial district in which the cause, or some part thereof, arose, such court is the proper court for the trial of such action; otherwise, any court in such county, having jurisdiction of the subject matter of the action, is a proper court for the trial thereof. In the case of offenses committed on a lake, river, or stream, hereinabove mentioned, the court, having jurisdiction of the subject matter of the action, nearest to the place where such offense was committed,

in any county mentioned in subdivision 1 of this section, is a proper court for the trial of the action.

Comment. Section 393 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, § 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Code Civ. Proc. § 395 (amended). Actions generally

SEC. _____. Section 395 of the Code of Civil Procedure is amended to read:

395. (a) Except as otherwise provided by law and subject to the power of the court to transfer actions or proceedings as provided in this title, the county in which the defendants or some of them reside at the commencement of the action is the proper county for the trial of the action. If the action is for injury to person or personal property or for death from wrongful act or negligence, either the county where the injury occurs or the injury causing death occurs or the county in which the defendants, or some of them reside at the commencement of the action, shall be a proper county for the trial of the action. In a proceeding for dissolution of marriage, the county in which either the petitioner or respondent has been a resident for three months next preceding the commencement of the proceeding is the proper county for the trial of the proceeding. In a proceeding for nullity of marriage or legal separation of the parties, the county in which either the petitioner or the respondent resides at the commencement of the proceeding is the proper county for the trial of the proceeding. In a proceeding to enforce an obligation of support under Section 3900 of the Family Code, the county in which the child resides is the proper county for the trial of the action. In a proceeding to establish and enforce a foreign judgment or court order for the support of a minor child, the county in which the child resides is the proper county for the trial of the action. Subject to subdivision (b), when a defendant has contracted to perform an obligation in a particular county, either the county where the obligation is to be performed or in which the contract in fact was entered into or the county in which the defendant or any such defendant resides at the

commencement of the action shall be a proper county for the trial of an action founded on that obligation, and the county in which the obligation is incurred shall be deemed to be the county in which it is to be performed unless there is a special contract in writing to the contrary. If none of the defendants reside in the state or if residing in the state and the county in which they reside is unknown to the plaintiff, the action may be tried in any county which the plaintiff may designate in his or her complaint, and, if the defendant is about to depart from the state, the action may be tried in any county where either of the parties reside or service is made. If any person is improperly joined as a defendant or has been made a defendant solely for the purpose of having the action tried in the county or judicial district where he or she resides, his or her residence shall not be considered in determining the proper place for the trial of the action.

(b) Subject to the power of the court to transfer actions or proceedings as provided in this title, in an action arising from an offer or provision of goods, services, loans or extensions of credit intended primarily for personal, family or household use, other than an obligation described in Section 1812.10 or Section 2984.4 of the Civil Code, or an action arising from a transaction consummated as a proximate result of an unsolicited telephone call made by a seller engaged in the business of consummating transactions of that kind, the county in which the buyer or lessee in fact signed the contract, the county in which the buyer or lessee resided at the time the contract was entered into, or the county in which the buyer or lessee resides at the commencement of the action is the proper county for the trial thereof.

(c) If within the county there is a municipal ~~or~~ justice court having jurisdiction of the subject matter established, in the cases mentioned in subdivision (a), in the judicial district in which the defendant or any defendant resides, in which the injury to person or personal property or the injury causing death occurs, or, in which the obligation was contracted to be performed or, in cases mentioned in subdivision (b), in the judicial district *in* which the buyer or lessee resides, in which the buyer or lessee in fact signed the contract, in which the buyer or lessee resided at the time the

contract was entered into, or in which the buyer or lessee resides at the commencement of the action, then that court is the proper court for the trial of the action. Otherwise, any ~~municipal or justice~~ court in the county having jurisdiction of the subject matter is a proper court for the trial thereof.

(d) Any provision of an obligation described in subdivision (b) or (c) waiving those subdivisions is void and unenforceable.

Comment. Section 395 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Code Civ. Proc. § 395.9 (added). Misclassification as limited civil case or otherwise

SEC. _____. Section 395.9 is added to the Code of Civil Procedure, to read:

395.9. (a) In a county in which there is no municipal court, if the caption of the complaint, cross-complaint, petition, or other initial pleading erroneously states or fails to state, pursuant to Section 422.30, that the action or proceeding is a limited civil case, the action or proceeding shall not be dismissed, except as provided in Section 399.5 or paragraph (1) of subdivision (b) of Section 581, but shall, on the motion of the defendant or cross-defendant within the time allowed for that party to respond to the initial pleading, or on the court's own motion at any time, be reclassified as a limited civil case or otherwise. The action or proceeding shall then be prosecuted as if it had been so commenced, all prior proceedings being saved. A motion for reclassification does not extend the moving party's time to answer or otherwise plead.

(b) If it appears from the verified pleadings, or at the trial, or hearing, that the determination of the action or proceeding, or of a cross-complaint, will necessarily involve the determination of questions inconsistent with the jurisdictional classification of the case, the court shall, on motion of either party establishing the grounds for misclassification and good cause for not seeking reclassification earlier, or on the court's own motion at any time, reclassify the case.

(c) A motion for reclassification pursuant to this section shall be supported by a declaration, affidavit, or other evidence if necessary to establish that the case is misclassified. A declaration, affidavit, or other evidence is not required if the grounds for misclassification appear on the face of the challenged pleading. All moving and supporting papers, opposition papers, and reply papers shall be served and filed in accordance with Section 1005.

(d) An action or proceeding which is reclassified under the provisions of this section shall be deemed to have been commenced at the time the complaint or petition was initially filed, not at the time of reclassification.

(e) Nothing in this section shall be construed to preclude or affect the right to amend the pleadings as provided in this code.

(f) Nothing in this section shall be construed to require the superior court to reclassify any action or proceeding because the judgment to be rendered, as determined at the trial or hearing, is one which might have been rendered in a limited civil case.

(g) In any case where the erroneous classification is due solely to an excess in the amount of the demand, the excess may be remitted and the action may continue as a limited civil case.

(h) Upon the making of an order for reclassification, proceedings shall be had as provided in Section 399.5. Unless the court ordering the reclassification otherwise directs, the costs and fees of those proceedings, and other costs and fees of reclassifying the case, including any additional amount due for filing the initial pleading, are to be paid by the party filing the pleading that erroneously classified the case.

Comment. Section 395.9 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases) & Comment.

Code Civ. Proc. § 396 (amended). Court without jurisdiction

SEC. _____. Section 396 of the Code of Civil Procedure is amended to read:

396. If an action or proceeding is commenced in a court which lacks jurisdiction of the subject matter thereof, as determined by the complaint or petition, if there is a court of this state which has such jurisdiction, the action or proceeding shall not be dismissed

(except as provided in Section 399, and subdivision 1 of Section 581) but shall, on the application of either party, or on the court's own motion, be transferred to a court having jurisdiction of the subject matter which may be agreed upon by the parties, or, if they do not agree, to a court having such jurisdiction which is designated by law as a proper court for the trial or determination thereof, and it shall thereupon be entered and prosecuted in the court to which it is transferred as if it had been commenced therein, all prior proceedings being saved. In any such case, if summons is served prior to the filing of the action or proceeding in the court to which it is transferred, as to any defendant, so served, who has not appeared in the action or proceeding, the time to answer or otherwise plead shall date from service upon such defendant of written notice of filing of such action or proceeding in the court to which it is transferred.

If an action or proceeding is commenced in or transferred to a court which has jurisdiction of the subject matter thereof as determined by the complaint or petition, and it thereafter appears from the verified pleadings, or at the trial, or hearing, that the determination of the action or proceeding, or of a cross-complaint, will necessarily involve the determination of questions not within the jurisdiction of the court, in which the action or proceeding is pending, the court, whenever such lack of jurisdiction appears, must suspend all further proceedings therein and transfer the action or proceeding and certify the pleadings (or if the pleadings be oral, a transcript of the same), and all papers and proceedings therein to a court having jurisdiction thereof which may be agreed upon by the parties, or, if they do not agree, to a court having such jurisdiction which is designated by law as a proper court for the trial or determination thereof.

An action or proceeding which is transferred under the provisions of this section shall be deemed to have been commenced at the time the complaint or petition was filed in the court from which it was originally transferred.

Nothing herein shall be construed to preclude or affect the right to amend the pleadings as provided in this code.

Nothing herein shall be construed to require the superior court to transfer any action or proceeding because the judgment to be rendered, as determined at the trial or hearing, is one which might have been rendered by a municipal or justice court in the same county or city and county.

In any case where the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be remitted and the action may continue in the court where it is pending.

Upon the making of an order for such transfer, proceedings shall be had as provided in Section 399 of this code, the costs and fees thereof, and of filing the case in the court to which transferred, to be paid by the party filing the pleading in which the question outside the jurisdiction of the court appears unless the court ordering the transfer shall otherwise direct.

Comment. Section 396 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 396a (amended). Statement of jurisdictional facts

SEC. _____. Section 396a of the Code of Civil Procedure is amended to read:

396a. ~~In all actions and proceedings commenced in a justice or municipal court which are~~ *In a limited civil case that is* subject to the provisions of Sections 1812.10 and 2984.4 of the Civil Code, or subdivision (b) of Section 395 of the Code of Civil Procedure, or is an action or proceeding for an unlawful detainer as defined in Section 1161 of the Code of Civil Procedure, plaintiff shall state facts in the complaint, verified by ~~his~~ *the plaintiff's* oath, or the oath of ~~his~~ *the plaintiff's* attorney, or in an affidavit of the plaintiff or of ~~his~~ *the plaintiff's* attorney filed with the complaint, showing that the action has been commenced in the proper court for the trial of such action or proceeding, and showing that the action is subject to the provisions of Sections 1812.10 and 2984.4 of the Civil Code or subdivision (b) of Section 395 of the Code of Civil Procedure, or is an action for an unlawful detainer. When such affidavit is filed with the complaint, a copy thereof must be served with the summons. Except as herein provided, if such complaint or affidavit be not so filed, no further proceedings shall be had in the action or

proceeding, except to dismiss the same without prejudice. However, the court may, on such terms as may be just, permit such affidavit to be filed subsequent to the filing of the complaint, and a copy of such affidavit shall be served on the defendant and the time to answer or otherwise plead shall date from such service. If it appears from such complaint or affidavit, or otherwise, that the court in which such action or proceeding is commenced is not the proper court for the trial thereof, the court in which such action or proceeding is commenced, or a judge thereof, shall, whenever such fact appears, transfer it to such proper court, on its own motion, or on motion of the defendant, unless the defendant consents in writing, or in open court (such consent in open court being entered in the minutes or docket of the court), to the keeping of the action or proceeding in the court where commenced. If such consent be given, the action or proceeding may continue in the court where commenced. Notwithstanding the provisions of Section 1801.1 and subdivision (f) of Section 2983.7 of the Civil Code that consent may be given by a defendant who is represented by counsel at the time the consent is given, and where an action or proceeding is subject to the provisions of subdivision (b) of Section 395 of the Code of Civil Procedure or is for an unlawful detainer, that consent may only be given by a defendant who is represented by counsel at the time the consent is given. In any such case where the transfer of the action or proceeding is ordered under the provisions of this paragraph, if summons is served prior to the filing of such action or proceeding in the court to which it is transferred, as to any defendant, so served, who has not appeared in the action or proceeding, the time to answer or otherwise plead shall date from service upon such defendant of written notice of such filing.

When it appears from such complaint or affidavit of the plaintiff that the court in which such action or proceeding is commenced is a proper court for the trial thereof, all proper proceedings may be had, and the action or proceeding may be tried therein; provided, however, that in such case a motion for a transfer of the action or proceeding may be made as in other cases, within the time, upon the grounds, and in the manner provided in this title, and if upon such motion it appears that such action or proceeding is not

pending in the proper court, or should for other cause be transferred, the same shall be ordered transferred as provided in this title.

When any such action or proceeding is ordered transferred as herein provided, proceedings shall be had, and the costs and fees shall be paid, as provided in Sections 398 and 399 of this code.

Comment. Section 396a is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Formerly, each county had one or more municipal courts and a superior court, and Section 396a applied to matters commenced in the municipal courts. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 396a as amended continues the effect of former law. *Cf.* Sections 85, 85.1 (limited civil cases)

Code Civ. Proc. § 399.5 (added). Reclassification pursuant to Section 395.9

SEC. _____. Section 399.5 is added to the Code of Civil Procedure, to read:

399.5. (a) Where an order is made for reclassification of an action or proceeding pursuant to Section 395.9, the clerk shall refile the case as reclassified on satisfaction of both of the following conditions:

(1) Costs and fees have been paid in accordance with Section 395.9.

(2) Either the time within which to file a petition for writ of mandate pursuant to Section 400 has expired and no writ has been filed, or a writ has been filed and a judgment denying the writ has become final.

(b) If the costs and fees have not been paid in accordance with Section 395.9 within five days after service of notice of the order for reclassification, then any party interested in the case, regardless of whether that party is named in the complaint, may pay the costs and fees, and the clerk shall refile the case as if the costs and fees had been paid in accordance with Section 395.9. The costs and fees are then a proper item of costs of the party paying them, recoverable if that party prevails in the action or proceeding. Otherwise, the costs and fees shall be offset against and deducted from the amount, if any, awarded to the party responsible for the

costs and fees under Section 395.9, in the event that party prevails in the action or proceeding.

(c) The cause of action shall not be further prosecuted in any court until the costs and fees of reclassifying the case are paid. If those costs and fees are not paid within 30 days after service of notice of an order for reclassification, or if a copy of a petition for writ of mandate pursuant to Section 400 is filed in the trial court, then within 30 days after notice of finality of the order for reclassification, the court on a motion by any party may dismiss the action without prejudice to the cause on the condition that no other action on the cause may be commenced in another court before the costs and fees are paid. Where a petition for writ of mandate does not result in a stay of proceedings, the time for payment of those costs and fees is 60 days after service of the notice of the order.

(d) At the time of refiling the case as reclassified, the clerk shall mail notice to all parties who have appeared in the action or proceeding, stating the date when refiling occurred and the number assigned to the case as refiled.

(e) The court shall have and exercise over the refiled action or proceeding the same authority as if the action or proceeding had been originally commenced as reclassified, all prior proceedings being saved. The court may allow or require whatever amendment of the pleadings, filing and service of amended, additional, or supplemental pleadings, or giving of notice, or other appropriate action as may be necessary for the proper presentation and determination of the action or proceeding as reclassified.

Comment. Section 399.5 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Pleading rules for limited civil cases differ in some respects from pleading rules for other cases. See Sections 91 (application of economic litigation procedures), 92 (pleadings in cases subject to economic litigation procedures), 93 (case questionnaire), 396a (statement of jurisdictional facts), 425.10 (content of complaint), 425.11 (damages for personal injury or wrongful death). Under subdivision (e), a court may make appropriate adjustments where a defendant responds to the complaint in accordance with pleading rules that become inapplicable on reclassification.

Code Civ. Proc. § 400 (amended). Petition for writ of mandate

SEC. _____. Section 400 of the Code of Civil Procedure is amended to read:

400. When an order is made by the superior court granting or denying a motion to change the place of trial *or a motion to reclassify an action or proceeding pursuant to Section 395.9*, the party aggrieved by such order may, within 20 days after service of a written notice of the order, petition the court of appeal for the district in which the court granting or denying the motion is situated for a writ of mandate requiring trial of the case in the proper court *or proper classification of the action or proceeding pursuant to Section 395.9*. The superior court may, for good cause, and prior to the expiration of the initial 20-day period, extend the time for one additional period not to exceed 10 days. The petitioner shall file a copy of such petition in the trial court immediately after the petition is filed in the court of appeal. The court of appeal may stay all proceedings in the case, pending judgment on the petition becoming final. The clerk of the court of appeal shall file with the clerk of the trial court, a copy of any final order or final judgment immediately after such order or judgment becomes final.

Comment. Section 400 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 402 (amended). Transfer for convenience of municipal court

SEC. _____. Section 402 of the Code of Civil Procedure is amended to read:

402. The presiding judge of a municipal ~~or justice~~ court district may order, for the convenience of the court, that any case pending trial be transferred to a contiguous municipal ~~or justice~~ court district in the same county if the presiding judge in the district to which the case is proposed to be transferred consents to the transfer and notice thereof is given to the parties or their attorneys at least 10 days in advance of the date fixed for trial.

No fees shall be charged for the transfer of any case pursuant to this section.

Comment. Section 402 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 402.5 (added). Change of venue in limited civil case

SEC. _____. Section 402.5 is added to the Code of Civil Procedure, to read:

402.5. The superior court in a county in which there is no municipal court may transfer a limited civil case to another branch or location of the superior court in the same county.

Comment. Section 402.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section makes clear that even though a limited civil case is triable in the superior court in a county in which there is no municipal court, there may be circumstances where it is appropriate to transfer the case for trial within the same county rather than to another county. This parallels statutory authority for change of venue in misdemeanor and infraction cases. Penal Code § 1038 (Judicial Council rules). The Judicial Council may prescribe rules governing transfers. Cal. Const. art. VI, § 6 (“To improve the administration of justice the council shall ... adopt rules for court administration, practice and procedure, not inconsistent with statute”).

Code Civ. Proc. § 422.20 (repealed). Justice court pleadings

SEC. _____. Section 422.20 of the Code of Civil Procedure is repealed.

~~422.20. The rules of pleading in justice courts shall be the same as the rules of pleading in municipal courts.~~

Comment. Section 422.20 is repealed to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 422.30 (amended). Caption

SEC. _____. Section 422.30 of the Code of Civil Procedure is amended to read:

422.30. (a) Every pleading shall contain a caption setting forth:

(a) (1) The name of the court and county, and, in municipal ~~and justice courts~~, the name of the judicial district, in which the action is brought; and

(b) (2) The title of the action.

(b) *In a limited civil case in a county in which there is no municipal court, the caption shall state that the case is a limited civil case.*

Comment. Section 422.30 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Subdivision (b) facilitates identification of limited civil cases in a county in which the municipal and superior courts have unified their operations in the superior court. See Section 85 (limited civil cases) & Comment. For guidance on procedures for challenging a caption stating, or failing to state, that an action or proceeding is a limited civil case, see Sections 395.9 (misclassification as limited civil case or otherwise), 399.5 (reclassification pursuant to Section 395.9), 400 (petition for writ of mandate).

Section 422.30 is also amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 425.10 (amended). Content of complaint

SEC. _____. Section 425.10 of the Code of Civil Procedure is amended to read:

425.10. A complaint or cross-complaint shall contain both of the following:

(a) A statement of the facts constituting the cause of action, in ordinary and concise language.

(b) A demand for judgment for the relief to which the pleader claims he is *to be* entitled. If the recovery of money or damages be demanded, the amount thereof shall be stated, unless the action is brought in the superior court to recover actual or punitive damages for personal injury or wrongful death, in which case the amount thereof shall not be stated, *except in a limited civil case*.

Comment. Section 425.10 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 425.11 (amended). Damages for personal injury or wrongful death

SEC. _____. Section 425.11 of the Code of Civil Procedure is amended to read:

425.11. (a) As used in this section:

(1) “Complaint” includes a cross-complaint.

(2) “Plaintiff” includes a cross-complainant.

(3) “Defendant” includes a cross-defendant.

(b) When a complaint is filed in an action in the superior court to recover damages for personal injury or wrongful death, the defendant may at any time request a statement setting forth the

nature and amount of damages being sought, *except in a limited civil case*. The request shall be served upon the plaintiff, who shall serve a responsive statement as to the damages within 15 days. In the event that a response is not served, the party, on notice to the plaintiff, may petition the court in which the action is pending to order the plaintiff to serve a responsive statement.

(c) If no request is made for the statement referred to in subdivision (a), the plaintiff shall serve the statement on the defendant before a default may be taken.

(d) The statement referred to in subdivision (b) shall be served in the following manner:

(1) If a party has not appeared in the action, the statement shall be served in the same manner as a summons.

(2) If a party has appeared in the action, the statement shall be served upon his or her attorney, or upon the party if he or she has appeared without an attorney, in the manner provided for service of a summons or in the manner provided by Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(e) The statement referred to in subdivision (b) may be combined with the statement described in Section 425.115.

Comment. Section 425.11 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 489.220 (amended). Amount of undertaking

SEC. _____. Section 489.220 of the Code of Civil Procedure is amended to read:

489.220. (a) Except as provided in subdivision (b), the amount of an undertaking filed pursuant to this article shall be two thousand five hundred dollars (\$2,500) ~~in an action in the municipal or justice court~~ *a limited civil case*, and seven thousand five hundred dollars (\$7,500) ~~in an action in the superior court~~ *otherwise*.

(b) If, upon objection to the undertaking, the court determines that the probable recovery for wrongful attachment exceeds the amount of the undertaking, it shall order the amount of the undertaking increased to the amount it determines to be the probable recovery for wrongful attachment if it is ultimately determined that the attachment was wrongful.

Comment. Section 489.220 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Formerly, each county had one or more municipal courts and a superior court, and Section 489.220 required an undertaking of \$2,500 for an action in municipal court and \$7,500 for an action in superior court. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court, so Section 489.220 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 564 (amended). Appointment of receivers

SEC. _____. Section 564 of the Code of Civil Procedure is amended to read:

564. (a) A receiver may be appointed, in the manner provided in this chapter, by the court in which an action or proceeding is pending in any case in which the court is empowered by law to appoint a receiver.

(b) In superior court a receiver may be appointed by the court in which an action or proceeding is pending, or by a judge thereof, in the following cases, *other than in a limited civil case*:

(1) In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to the creditor's claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured.

(2) In an action by a secured lender for the foreclosure of the deed of trust or mortgage and sale of the property upon which there is a lien under a deed of trust or mortgage, where it appears that the property is in danger of being lost, removed, or materially injured, or that the condition of the deed of trust or mortgage has not been performed, and that the property is probably insufficient to discharge the deed of trust or mortgage debt.

(3) After judgment, to carry the judgment into effect.

(4) After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or pursuant to Title 9 (commencing with Section 680.010)

(enforcement of judgments), or after sale of real property pursuant to a decree of foreclosure, during the redemption period, to collect, expend, and disburse rents as directed by the court or otherwise provided by law.

(5) In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights.

(6) In an action of unlawful detainer.

(7) At the request of the Public Utilities Commission pursuant to Sections 855 and 5259.5 of the Public Utilities Code.

(8) In all other cases where receivers have heretofore been appointed by the usages of courts of equity.

(9) At the request of the Office of Statewide Health Planning and Development, or the Attorney General, pursuant to Section 436.222 of the Health and Safety Code.

(10) In an action by a secured lender for specified performance of an assignment of rents provision in a deed of trust, mortgage, or separate assignment document. In addition, that appointment may be continued after entry of a judgment for specific performance in that action, if appropriate to protect, operate, or maintain real property encumbered by the deed of trust or mortgage or to collect the rents therefrom while a pending nonjudicial foreclosure under power of sale in the deed of trust or mortgage is being completed.

(11) In a case brought by an assignee under an assignment of leases, rents, issues, or profits pursuant to subdivision (g) of Section 2938 of the Civil Code.

(c) A receiver may be appointed, in the manner provided in this chapter, including, but not limited to, Section 566, by the superior court in an action *other than a limited civil case* brought by a secured lender to enforce the rights provided in Section 2929.5 of the Civil Code, to enable the secured lender to enter and inspect the real property security for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security. The secured lender shall not abuse the right of entry and inspection or use it to harass the borrower or tenant of the property. Except in case of an

emergency, when the borrower or tenant of the property has abandoned the premises, or if it is impracticable to do so, the secured lender shall give the borrower or tenant of the property reasonable notice of the secured lender's intent to enter and shall enter only during the borrower's or tenant's normal business hours. Twenty-four hours' notice shall be presumed to be reasonable notice in the absence of evidence to the contrary.

(d) Any action by a secured lender to appoint a receiver pursuant to this section shall not constitute an action within the meaning of subdivision (a) of Section 726.

(e) For purposes of this section:

(1) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(2) "Hazardous substance" means (A) any "hazardous substance" as defined in subdivision (f) of Section 25281 of the Health and Safety Code as effective on January 1, 1991, or as subsequently amended, (B) any "waste" as defined in subdivision (d) of Section 13050 of the Water Code as effective on January 1, 1991, or as subsequently amended, or (C) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(3) "Real property security" means any real property and improvements, other than a separate interest and any related interest in the common area of a residential common interest development, as the terms "separate interest," "common area," and "common interest development" are defined in Section 1351 of the Civil Code, or real property consisting of one acre or less which contains 1 to 15 dwelling units.

(4) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing

migration, of hazardous substances into, onto, or through soil, surface water, or groundwater.

(5) “Secured lender” means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.

Comment. Section 564 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 575 (amended). Promulgation of rules by Judicial Council

SEC. _____. Section 575 of the Code of Civil Procedure is amended to read:

575. The Judicial Council may promulgate rules governing pretrial conferences, and the time, manner and nature thereof, in civil cases at issue, or in one or more classes thereof, in the superior, ~~municipal, and justice~~ *and municipal* courts.

Comment. Section 575 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 575.1 (amended). Local rules

SEC. _____. Section 575.1 of the Code of Civil Procedure is amended to read:

575.1. (a) The presiding judge of each superior, ~~municipal, and justice~~ *and municipal* court may prepare, with the assistance of appropriate committees of the court, proposed local rules designed to expedite and facilitate the business of the court. The rules need not be limited to those actions on the civil active list, but may provide for the supervision and judicial management of actions from the date they are filed. Rules prepared pursuant to this section shall be submitted for consideration to the judges of the court and, upon approval by a majority of the judges, the judges shall have the proposed rules published and submitted to the local bar and others, as specified by the Judicial Council, for consideration and recommendations.

(b) After a majority of the judges have officially adopted the rules, 61 copies or a greater number as specified by Judicial Council rule, shall be filed with the Judicial Council as required by Section 68071 of the Government Code. The Judicial Council shall deposit a copy of each rule and amendment with each county law library or county clerk where it shall be made available for public examination. The local rules shall also be published for general distribution in accordance with rules adopted by the Judicial Council. Each court shall make its local rules available for inspection and copying in every location of the court that generally accepts filing of papers. The court may impose a reasonable charge for copying the rules and may impose a reasonable page limit on copying. The rules shall be accompanied by a notice indicating where a full set of the rules may be purchased.

(c) If a judge of a court adopts a rule which applies solely to cases in that judge's courtroom, or a particular branch or district of a court adopts a rule that applies solely to cases in that particular branch or district of a court, the court shall publish these rules as part of the general publication of rules required by the California Rules of Court. The court shall organize the rules so that rules on a common subject, whether individual, branch, district, or courtwide appear sequentially. Individual judges' rules and branch and district rules are local rules of court for purposes of this section and for purposes of the adoption, publication, comment, and filing requirements set forth in the Judicial Council rules applicable to local court rules.

Comment. Section 575.1 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 580 (amended). Relief awardable

SEC. _____. Section 580 of the Code of Civil Procedure is amended to read:

580. (a) The relief granted to the plaintiff, if there is no answer, cannot exceed that which he or she shall have demanded in his or her complaint, in the statement required by Section 425.11, or in the statement provided for by Section 425.115; but in any other case the court may grant the plaintiff any relief consistent with the

case made by the complaint and embraced within the issue. *The court may impose liability, regardless of whether the theory upon which liability is sought to be imposed involves legal or equitable principles.*

(b) Notwithstanding subdivision (a), the following types of relief may not be granted in a limited civil case:

(1) Relief exceeding the maximum amount in controversy for a limited civil case as provided in Section 85, exclusive of attorney fees, interest, and costs.

(2) A permanent injunction.

(3) A determination of title to real property.

(4) Enforcement of an order under the Family Code.

(5) Declaratory relief, except as authorized by Section 86.

Comment. Section 580 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

The last sentence of subdivision (a) continues former Section 86(c) without substantive change.

Subdivision (b)(1) makes explicit that although the jurisdiction of a unified superior court includes matters in which the amount in controversy exceeds the maximum for a limited civil case as provided in Section 85, the court cannot grant substantive relief exceeding that maximum in a limited civil case. Formerly, each county had one or more municipal courts and a superior court, and the jurisdictional limit of the municipal courts constrained the relief awardable in matters tried in those courts. *See Stokus v. Marsh*, 217 Cal. App. 3d 647, 653, 266 Cal. Rptr. 90 (1990) (“we view the jurisdictional limit of Code of Civil Procedure section 86 as applying to the substantive judgment and not the award of costs, including reasonable attorneys’ fees”); *Bakkebo v. Municipal Court*, 124 Cal. App. 3d 229, 177 Cal. Rptr. 239 (1981) (“Since the substantive demand is the touchstone of jurisdiction it follows that if the recovery on that demand is within the jurisdiction of the municipal court, that court retains jurisdiction to award costs and attorney fees even though those items, when added to the substantive portion of the judgment, aggregate an amount in excess of the jurisdictional limit.”); *see also* Section 396 (“In any case where the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be remitted and the action may continue in the court where it is pending.”). A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 580(b)(1) as amended continues and codifies the effect of former law.

Similarly, subdivisions (b)(2)-(b)(5) reflect and preserve limitations on the types of equitable relief awardable in a municipal court. *See R. Weil & I Brown, Jr., California Practice Guide: Civil Procedure Before Trial, Jurisdiction and Venue* §§ 3:12-3:18.1, at 3-6 to 3-7 (1997). *See also St. James Church of Christ Holiness v. Superior Court*, 135 Cal. App. 2d 352, 362, 287 P.2d 387 (1955)

(municipal court lacks jurisdiction to grant permanent injunction); Pasadena Investment Co. v. Peerless Casualty Co., 134 Cal. App. 2d Supp. 902, 286 P.2d 1014 (1955) (municipal court lacks jurisdiction to grant declaratory relief). On enforcement of orders under the Family Code, see Family Code Sections 200, 290; In re Marriage of Lackey, 143 Cal. App. 3d 698, 191 Cal. Rptr. 309 (1983).

Cf. Sections 85, 85.1 (limited civil cases).

Code Civ. Proc. § 581d (amended). Dismissal

SEC. _____. Section 581d of the Code of Civil Procedure is amended to read:

581d. A written dismissal of an action shall be entered in the clerk's register and is effective for all purposes when so entered.

All dismissals ordered by the court shall be in the form of a written order signed by the court and filed in the action and such orders when so filed shall constitute judgments and be effective for all purposes, and the clerk ~~in superior, municipal, and justice courts~~ shall note such judgments in ~~his~~ *the* register of actions in the case.

Comment. Section 581d is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 582.5 (added). Judgment for payment of money

SEC. _____. Section 582.5 is added to the Code of Civil Procedure, to read:

582.5. In a limited civil case in which the defendant has appeared, if the judgment or order is for the payment of money by the defendant, the defendant shall pay the judgment immediately or at any time and upon terms and conditions, including installment payments, that the court may prescribe. The court may amend the terms and conditions for payment of the judgment or order at any time to provide for installment payments for good cause upon motion by a party and notice to all affected parties, regardless of the nature of the underlying debt and regardless of whether the moving party appeared before entry of the judgment or order. In any determination regarding the imposition of terms and conditions upon the payment of the judgment, the court shall consider any factors that would be relevant to the determination of a claim for exemption pursuant to Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 or the examination of a

debtor pursuant to Article 2 (commencing with Section 708.110) of Chapter 6 of Division 2 of Title 9.

Comment. Section 582.5 continues former Section 85 without substantive change, except that former Section 85 referred to the municipal courts, whereas Section 582.5 pertains to a limited civil case. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 582.5 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 594 (amended). Bringing issues to trial or hearing

SEC. _____. Section 594 of the Code of Civil Procedure is amended to read:

594. (a) In superior, ~~municipal, and justice~~ *and municipal* courts either party may bring an issue to trial or to a hearing, and, in the absence of the adverse party, unless the court, for good cause, otherwise directs, may proceed with ~~his~~ *the* case and take a dismissal of the action, or a verdict, or judgment, as the case may require; provided, however, if the issue to be tried is an issue of fact, proof shall first be made to the satisfaction of the court that the adverse party has had 15 days' notice of such trial or five days' notice of such trial in an unlawful detainer action as specified in subdivision (b). If the adverse party has served notice of trial upon the party seeking the dismissal, verdict, or judgment at least five days prior to the trial, the adverse party shall be deemed to have had such notice.

(b) The notice to the adverse party required by subdivision (a) shall be served by mail on all the parties by the clerk of the court not less than 20 days prior to the date set for trial. In an unlawful detainer action where notice is served by mail such service shall be mailed not less than 10 days prior to the date set for trial. If notice is not served by the clerk as required by this subdivision, it may be served by mail by any party on the adverse party not less than 15 days prior to the date set for trial, and in an unlawful detainer action where notice is served by mail such service shall be mailed not less than 10 days prior to the date set for trial. The time provisions of Section 1013 shall not serve to extend the notice of trial requirements under this subdivision for unlawful detainer actions. If notice is served by the clerk, proof thereof may be made

by introduction into evidence of the clerk's certificate pursuant to subdivision (3) of Section 1013a or other competent evidence. If notice is served by a party, proof may be made by introduction into evidence of an affidavit or certificate pursuant to subdivision (1) or (2) of Section 1013a or other competent evidence. The provisions of this subdivision are exclusive.

Comment. Section 594 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 628 (amended). Entry upon receipt of verdict

SEC. _____. Section 628 of the Code of Civil Procedure is amended to read:

628. In superior, ~~municipal, and justice~~ *and municipal* courts upon receipt of a verdict, an entry must be made in the minutes of the court, specifying the time of trial, the names of the jurors and witnesses, and setting out the verdict at length; and where special verdict is found, either the judgment rendered thereon, or if the case be reserved for argument or further consideration, the order thus reserving it.

Comment. Section 628 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 631 (amended). Waiver of trial by jury

SEC. _____. Section 631 of the Code of Civil Procedure is amended to read:

631. (a) Trial by jury may be waived by the several parties to an issue of fact in any of the following ways:

- (1) By failing to appear at the trial.
- (2) By written consent filed with the clerk or judge.
- (3) By oral consent, in open court, entered in the minutes or docket.
- (4) By failing to announce that a jury is required, at the time the cause is first set for trial, if it is set upon notice or stipulation, or within five days after notice of setting if it is set without notice or stipulation.
- (5) By failing to deposit with the clerk, or judge, advance jury fees 25 days prior to the date set for trial, except in unlawful detainer actions where the fees shall be deposited at least five days

prior to the date set for trial, or as provided by subdivision (b). The advanced jury fee shall not exceed the amount necessary to pay the average mileage and fees of 20 trial jurors for one day in the court to which the jurors are summoned.

(6) By failing to deposit with the clerk or judge, promptly after the impanelment of the jury, a sum equal to the mileage or transportation (if any be allowed by law) of the jury accrued up to that time.

(7) By failing to deposit with the clerk or judge, at the beginning of the second and each succeeding day's session a sum equal to one day's fees of the jury, and the mileage or transportation, if any.

(b) In a superior court action, *other than a limited civil case*, if a jury is demanded by either party in the memorandum to set the cause for trial and the party, prior to trial, by announcement or by operation of law waives a trial by jury, then all adverse parties shall have five days following the receipt of notice of the waiver to file and serve a demand for a trial by jury and to deposit any advance jury fees which are then due.

(c) When the party who has demanded trial by jury either waives such trial upon or after the assignment for trial to a specific department of the court, or upon or after the commencement of the trial, or fails to deposit the fees as provided in paragraph (6) of subdivision (a), trial by jury shall be waived by the other party either failing promptly to demand trial by jury before the judge in whose department the waiver, other than for the failure to deposit such fees, was made, or by that party's failing promptly to deposit the fees provided in paragraph (6) of subdivision (a).

(d) The court may, in its discretion upon just terms, allow a trial by jury although there may have been a waiver of a trial by jury.

Comment. Section 631 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 632 (amended). Statement of decision

SEC. _____. Section 632 of the Code of Civil Procedure is amended to read:

632. In superior, ~~municipal, and justice~~ *and municipal* courts, upon the trial of a question of fact by the court, written findings of

fact and conclusions of law shall not be required. The court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial upon the request of any party appearing at the trial. The request must be made within 10 days after the court announces a tentative decision unless the trial is concluded within one calendar day or in less than eight hours over more than one day in which event the request must be made prior to the submission of the matter for decision. The request for a statement of decision shall specify those controverted issues as to which the party is requesting a statement of decision. After a party has requested such a statement, any party may make proposals as to the content of the statement of decision.

The statement of decision shall be in writing, unless the parties appearing at trial agree otherwise; however, when the trial is concluded within one calendar day or in less than 8 hours over more than one day, the statement of decision may be made orally on the record in the presence of the parties.

Comment. Section 632 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 655 (amended). Application of article to municipal and superior courts

SEC. _____. Section 655 of the Code of Civil Procedure is amended to read:

655. The provisions of this article apply to superior, ~~municipal, or justice courts~~ *or municipal courts*.

Comment. Section 655 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 668 (amended). Judgment book

SEC. _____. Section 668 of the Code of Civil Procedure is amended to read:

668. Except as provided in Section 668.5, the clerk of the superior, ~~municipal, and justice court~~ *and municipal court*, must keep, with the records of the court, a book called the “judgment book,” in which judgments must be entered.

Comment. Section 668 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 670 (amended). Judgment roll

SEC. _____. Section 670 of the Code of Civil Procedure is amended to read:

670. In superior, ~~municipal, and justice~~ *and municipal* courts the following papers, without being attached together, shall constitute the judgment roll:

(a) In case the complaint is not answered by any defendant, the summons, with the affidavit or proof of service; the complaint; the request for entry of default with a memorandum indorsed thereon that the default of the defendant in not answering was entered, and a copy of the judgment; if defendant has appeared by demurrer, and the demurrer has been overruled, then notice of the overruling thereof served on defendant's attorney, together with proof of the service; and in case the service so made is by publication, the affidavit for publication of summons, and the order directing the publication of summons.

(b) In all other cases, the pleadings, all orders striking out any pleading in whole or in part, a copy of the verdict of the jury, the statement of decision of the court, or finding of the referee, and a copy of any order made on demurrer, or relating to a change of parties, and a copy of the judgment; if there are two or more defendants in the action, and any one of them has allowed judgment to pass against him or her by default, the summons, with proof of its service, on the defendant, and if the service on the defaulting defendant be by publication, then the affidavit for publication, and the order directing the publication of the summons.

Comment. Section 670 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 685.030 (amended). Satisfaction of money judgment

SEC. _____. Section 685.030 of the Code of Civil Procedure is amended to read:

685.030. (a) If a money judgment is satisfied in full pursuant to a writ under this title, interest ceases to accrue on the judgment:

(1) If the proceeds of collection are paid in a lump sum, on the date of levy.

(2) If the money judgment is satisfied pursuant to an earnings withholding order, on the date and in the manner provided in Section 706.024 or Section 706.028.

(3) In any other case, on the date the proceeds of sale or collection are actually received by the levying officer.

(b) If a money judgment is satisfied in full other than pursuant to a writ under this title, interest ceases to accrue on the date the judgment is satisfied in full.

(c) If a money judgment is partially satisfied pursuant to a writ under this title or is otherwise partially satisfied, interest ceases to accrue as to the part satisfied on the date the part is satisfied.

(d) For the purposes of subdivisions (b) and (c), the date a money judgment is satisfied in full or in part is the earliest of the following times:

(1) The date satisfaction is actually received by the judgment creditor.

(2) The date satisfaction is tendered to the judgment creditor or deposited in court for the judgment creditor.

(3) The date of any other performance that has the effect of satisfaction.

(e) ~~The~~ *In a limited civil case, the* clerk of a ~~municipal or justice~~ court may enter in the Register of Actions a writ of execution on a money judgment as returned wholly satisfied when the judgment amount, as specified on the writ, is fully collected and only an interest deficit of no more than ten dollars (\$10) exists, due to automation of the continual daily interest accrual calculation.

Comment. Subdivision (e) of Section 685.030 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 685.030 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 688.010 (amended). Jurisdiction

SEC. _____. Section 688.010 of the Code of Civil Procedure is amended to read:

688.010. For the purpose of the remedies provided under this article, jurisdiction is conferred upon any of the following courts:

(a) The superior court, regardless whether the municipal or justice court also has jurisdiction under subdivision (b).

(b) The municipal or justice court if (1) the amount of liability sought to be collected does not exceed the jurisdictional amount of the court and (2) the legality of the liability being enforced is not contested by the person against whom enforcement is sought.

Comment. Section 688.010 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 697.310 (amended). Creation and duration of lien generally

SEC. _____. Section 697.310 of the Code of Civil Procedure is amended to read:

697.310. (a) Except as otherwise provided by statute, a judgment lien on real property is created under this section by recording an abstract of a money judgment with the county recorder.

(b) Unless the money judgment is satisfied or the judgment lien is released, subject to Section 683.180 (renewal of judgment), a judgment lien created under this section continues until 10 years from the date of entry of the judgment.

(c) The creation and duration of a judgment lien under a money judgment entered pursuant to Section 85 or 117 or 582.5 of this code or Section 16380 of the Vehicle Code or under a similar judgment is governed by this section, notwithstanding that the judgment may be payable in installments.

Comment. Section 697.310 is amended to reflect relocation of the substance of former Section 85 to Section 582.5.

Code Civ. Proc. § 697.350 (amended). Lien on real property

SEC. _____. Section 697.350 of the Code of Civil Procedure is amended to read:

697.350. (a) Except as otherwise provided by statute, a judgment lien on real property is a lien for the amount required to satisfy the money judgment.

(b) A judgment lien on real property created under a money judgment payable in installments pursuant to Section 85-~~or~~ 117 *or* 582.5 of this code or Section 16380 of the Vehicle Code or under a similar judgment is in the full amount required to satisfy the judgment, but the judgment lien may not be enforced for the amount of unmatured installments unless the court so orders.

(c) A judgment lien created pursuant to Section 697.320 is a lien for the amount of the installments as they mature under the terms of the judgment, plus accrued interest and the costs as they are added to the judgment pursuant to Chapter 5 (commencing with Section 685.010) of Division 1, and less the amount of any partial satisfactions, but does not become a lien for any installment until it becomes due and payable under the terms of the judgment.

Comment. Section 697.350 is amended to reflect relocation of the substance of former Section 85 to Section 582.5.

Code Civ. Proc. § 697.540 (amended). Lien on personal property

SEC. _____. Section 697.540 of the Code of Civil Procedure is amended to read:

697.540. (a) Except as otherwise provided by statute, a judgment lien on personal property is a lien for the amount required to satisfy the money judgment.

(b) A judgment lien on personal property created under a money judgment payable in installments pursuant to Section 85-~~or~~ 117 *or* 582.5 of this code or pursuant to Section 16380 of the Vehicle Code is in the full amount required to satisfy the judgment, but the judgment lien may not be enforced for the amount of unmatured installments unless the court so orders.

Comment. Section 697.540 is amended to reflect relocation of the substance of former Section 85 to Section 582.5.

Code Civ. Proc. § 703.600 (amended). Appeal of order on claim of exemption

SEC. _____. Section 703.600 of the Code of Civil Procedure is amended to read:

703.600. An appeal lies from any order made under this article ~~and shall be taken in the manner provided for appeals in the court in which the proceeding takes place.~~

Comment. Section 703.600 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 706.105 (amended). Claim of exemption under § 706.051

SEC. _____. Section 706.105 of the Code of Civil Procedure is amended to read:

706.105. (a) A judgment debtor may claim an exemption under Section 706.051 under either of the following circumstances:

(1) No prior hearing has been held with respect to the earnings withholding order.

(2) There has been a material change in circumstances since the time of the last prior hearing on the earnings withholding order.

(b) A claim of exemption shall be made by filing with the levying officer an original and one copy of (1) the judgment debtor's claim of exemption and (2) the judgment debtor's financial statement.

(c) Upon filing of the claim of exemption, the levying officer shall promptly send to the judgment creditor, at the address stated in the application for the earnings withholding order, by first-class mail, postage prepaid, all of the following:

(1) A copy of the claim of exemption.

(2) A copy of the financial statement.

(3) A notice of claim of exemption. The notice shall state that the claim of exemption has been filed and that the earnings withholding order will be terminated, or modified to reflect the amount of earnings claimed to be exempt in the claim of exemption, unless a notice of opposition to the claim of exemption is filed with the levying officer by the judgment creditor within 10 days after the date of the mailing of the notice of claim of exemption.

(d) A judgment creditor who desires to contest a claim of exemption shall, within 10 days after the date of the mailing of the notice of claim of exemption, file with the levying officer a notice of opposition to the claim of exemption.

(e) If a notice of opposition to the claim of exemption is filed with the levying officer within the 10-day period, the judgment creditor is entitled to a hearing on the claim of exemption. If the judgment creditor desires a hearing on the claim of exemption, the judgment creditor shall file a notice of motion for an order determining the claim of exemption with the court within 10 days after the date the levying officer mailed the notice of claim of exemption. If the notice of motion is so filed, the hearing on the motion shall be held not later than 30 days from the date the notice of motion was filed unless continued by the court for good cause. At the time prescribed by subdivision (b) of Section 1005, the judgment creditor shall give written notice of the hearing to the levying officer and shall serve a notice of the hearing and a copy of the notice of opposition to the claim of exemption on the judgment debtor and, if the claim of exemption so requested, on the attorney for the judgment debtor. Service is deemed made when the notice of the hearing and a copy of the notice of opposition to the claim of exemption are deposited in the mail, postage prepaid, addressed to the judgment debtor at the address stated in the claim of exemption and, if service on the attorney for the judgment debtor was requested in the claim of exemption, to the attorney at the address stated in the claim of exemption. The judgment creditor shall file proof of the service with the court. After receiving the notice of the hearing and before the date set for the hearing, the levying officer shall file the claim of exemption and the notice of opposition to the claim of exemption with the court.

(f) If the levying officer does not receive a notice of opposition to the claim of exemption within the 10-day period after the date of mailing of the notice of claim of exemption and a notice of the hearing not later than 10 days after the filing of the notice of opposition to the claim of exemption, the levying officer shall serve on the employer one of the following:

(1) A notice that the earnings withholding order has been terminated if all of the judgment debtor's earnings were claimed to be exempt.

(2) A modified earnings withholding order which reflects the amount of earnings claimed to be exempt in the claim of exemption if only a portion of the judgment debtor's earnings was claimed to be exempt.

(g) If, after hearing, the court orders that the earnings withholding order be modified or terminated, the clerk shall promptly transmit a certified copy of the order to the levying officer who shall promptly serve on the employer of the judgment debtor (1) a copy of the modified earnings withholding order or (2) a notice that the earnings withholding order has been terminated. The court may order that the earnings withholding order be terminated as of a date which precedes the date of hearing. If the court determines that any amount withheld pursuant to the earnings withholding order shall be paid to the judgment debtor, the court shall make an order directing the person who holds that amount to pay it promptly to the judgment debtor.

(h) If the earnings withholding order is terminated by the court, unless the court otherwise orders or unless there is a material change of circumstances since the time of the last prior hearing on the earnings withholding order, the judgment creditor may not apply for another earnings withholding order directed to the same employer with respect to the same judgment debtor for a period of 100 days following the date of service of the earnings withholding order or 60 days after the date of the termination of the order, whichever is later.

(i) If an employer has withheld and paid over amounts pursuant to an earnings withholding order after the date of termination of the order but prior to the receipt of notice of its termination, the judgment debtor may recover those amounts only from the levying officer if the levying officer still holds those amounts or, if those amounts have been paid over to the judgment creditor, from the judgment creditor. If the employer has withheld amounts pursuant to an earnings withholding order after termination of the order but has not paid over those amounts to the levying officer, the

employer shall promptly pay those amounts to the judgment debtor.

(j) An appeal lies from any court order under this section denying a claim of exemption or modifying or terminating an earnings withholding order. ~~The appeal shall be taken in the manner provided for appeals in the court in which the proceeding is had.~~ An appeal by the judgment creditor from an order modifying or terminating the earnings withholding order does not stay the order from which the appeal is taken. Notwithstanding the appeal, until the order modifying or terminating the earnings withholding order is set aside or modified, the order allowing the claim of exemption in whole or in part shall be given the same effect as if the appeal had not been taken.

(k) This section does not apply to a withholding order for support or a withholding order for taxes.

Comment. Section 706.105 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 708.180 (amended). Adverse claim of, or denial of debt by third party

SEC. _____. Section 708.180 of the Code of Civil Procedure is amended to read:

708.180. (a) Subject to subdivision (b), if a third person examined pursuant to Section 708.120 claims an interest in the property adverse to the judgment debtor or denies the debt, the court may, if the judgment creditor so requests, determine the interests in the property or the existence of the debt. Such a determination is conclusive as to the parties to the proceeding and the third person, but an appeal may be taken from the determination ~~in the manner provided for appeals from the court in which the proceeding takes place.~~ The court may grant a continuance for a reasonable time for discovery proceedings, the production of evidence, or other preparation for the hearing.

(b) The court may not make the determination provided in subdivision (a) if the third person's claim is made in good faith and any of the following conditions is satisfied:

(1) The court would not be a proper court for the trial of an independent civil action (including a creditor's suit) for the determination of the interests in the property or the existence of the debt, and the third person objects to the determination of the matter under subdivision (a).

(2) At the time an order for examination pursuant to Section 708.120 is served on the third person a civil action (including a creditor's suit) is pending with respect to the interests in the property or the existence of the debt.

(3) The court determines that the interests in the property or the existence of the debt should be determined in a creditor's suit.

(c) Upon application of the judgment creditor made ex parte, the court may make an order forbidding transfer of the property to the judgment debtor or payment of the debt to the judgment debtor until the interests in the property or the existence of the debt is determined pursuant to subdivision (a) or until a creditor's suit may be commenced and an order obtained pursuant to Section 708.240. An undertaking may be required in the discretion of the court. The court may modify or vacate the order at any time with or without a hearing on such terms as are just.

(d) Upon application of the judgment creditor upon noticed motion, the court may, if it determines that the judgment debtor probably owns an interest in the property or that the debt probably is owed to the judgment debtor, make an order forbidding the transfer or other disposition of the property to any person or forbidding payment of the debt until the interests in the property or the existence of the debt is determined pursuant to subdivision (a) or until a creditor's suit may be commenced and an order obtained pursuant to Section 708.240. The court shall require the judgment creditor to furnish an undertaking as provided in Section 529. The court may modify or vacate the order at any time after notice and hearing on such terms as are just.

Comment. Section 708.180 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See

Sections 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 720.160 (amended). Undertaking by creditor

SEC. _____. Section 720.160 of the Code of Civil Procedure is amended to read:

720.160. (a) If the creditor files with the levying officer an undertaking that satisfies the requirements of this section within the time allowed under subdivision (b) of Section 720.140:

(1) The levying officer shall execute the writ in the manner provided by law unless the third person files an undertaking to release the property pursuant to Chapter 6 (commencing with Section 720.610).

(2) After sale, payment, or delivery of the property pursuant to the writ, the property is free of all claims of the third person for which the creditor has given the undertaking.

(b) Subject to Sections 720.770 and 996.010, unless the creditor elects to file an undertaking in a larger amount, the amount of the undertaking filed by the creditor under this section shall be in the amount of:

~~(1) If the action is pending or the judgment was entered in the superior court, seven~~ *Except as provided in paragraph (2), seven* thousand five hundred dollars (\$7,500), or twice the amount of the execution lien as of the date of levy or other enforcement lien as of the date it was created, whichever is the lesser amount.

~~(2) If the action is pending or the judgment was entered in a municipal or justice court,~~ *In a limited civil case,* two thousand five hundred dollars (\$2,500), or twice the amount of the execution lien as of the date of levy or other enforcement lien as of the date it was created, whichever is the lesser amount.

(c) An undertaking given by the creditor under this chapter shall:

(1) Be made in favor of the third person.

(2) Indemnify the third person against any loss, liability, damages, costs, and attorney's fees, incurred by reason of the enforcement proceedings.

(3) Be conditioned on a final judgment that the third person owns or has the right of possession of the property.

(d) If the creditor is a public entity exempt from giving an undertaking, the public entity shall, in lieu of filing the undertaking, file with the levying officer a notice stating that the public entity opposes the claim of the third person. When so filed, the notice is deemed to satisfy the requirement of this section that an undertaking be filed.

Comment. Section 720.160 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Formerly, each county had one or more municipal courts and a superior court, and Section 720.160 required an undertaking of \$2,500 for an action in municipal court and \$7,500 for an action in superior court. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 720.160 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 720.260 (amended). Undertaking by creditor

SEC. _____. Section 720.260 of the Code of Civil Procedure is amended to read:

720.260. (a) If the creditor within the time allowed under subdivision (b) of Section 720.240 either files with the levying officer an undertaking that satisfies the requirements of this section and a statement that satisfies the requirements of Section 720.280 or makes a deposit with the levying officer of the amount claimed under Section 720.230:

(1) The levying officer shall execute the writ in the manner provided by law unless, in a case where the creditor has filed an undertaking, the secured party or lienholder files an undertaking to release the property pursuant to Chapter 6 (commencing with Section 720.610).

(2) After sale, payment, or delivery of the property pursuant to the writ, the property is free of all claims or liens of the secured party or lienholder for which the creditor has given the undertaking or made the deposit.

(b) Subject to Sections 720.770 and 996.010, unless the creditor elects to file an undertaking in a larger amount, the amount of the undertaking filed by the creditor under this section shall be in the amount of:

(1) ~~If the action is pending or the judgment was entered in the superior court, seven~~ *Except as provided in paragraph (2), seven* thousand five hundred dollars (\$7,500), or twice the amount of the execution lien as of the date of levy or other enforcement lien as of the date it was created, whichever is the lesser amount.

(2) ~~If the action is pending or the judgment was entered in a municipal or justice court, In a limited civil case,~~ two thousand five hundred dollars (\$2,500), or twice the amount of the execution lien as of the date of levy or other enforcement lien as of the date it was created, whichever is the lesser amount.

(c) An undertaking given by the creditor under this chapter shall:

(1) Be made in favor of the secured party or lienholder.

(2) Indemnify the secured party or lienholder against any loss, liability, damages, costs, and attorney's fees, incurred by reason of the enforcement proceedings.

(3) Be conditioned on a final judgment that the security interest or lien of the third person is entitled to priority over the creditor's lien.

(d) If the creditor is a public entity exempt from giving an undertaking, the public entity shall, in lieu of filing the undertaking, file with the levying officer a notice stating that the public entity opposes the claim of the third person. When so filed, the notice is deemed to satisfy the requirement of this section that an undertaking be filed.

Comment. Section 720.260 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Formerly, each county had one or more municipal courts and a superior court, and Section 720.260 required an undertaking of \$2,500 for an action in municipal court and \$7,500 for an action in superior court. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 720.160 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 720.420 (amended). Appeals of judgment on third-party claim

SEC. _____. Section 720.420 of the Code of Civil Procedure is amended to read:

720.420. An appeal may be taken from a judgment given pursuant to Section 720.390 ~~in the manner provided for appeals from the court in which the proceeding takes place.~~

Comment. Section 720.420 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 871.3 (amended). Good faith improver

SEC. _____. Section 871.3 of the Code of Civil Procedure is amended to read:

871.3. A good faith improver may bring an action in the superior court or, subject to ~~Section~~ *Sections 395.9 and 396*, may file a cross-complaint in a pending action in the superior or municipal court for relief under this chapter. In every case, the burden is on the good faith improver to establish that he is entitled to relief under this chapter, and the degree of negligence of the good faith improver should be taken into account by the court in determining whether the improver acted in good faith and in determining the relief, if any, that is consistent with substantial justice to the parties under the circumstances of the particular case.

Comment. Section 871.3 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Code Civ. Proc. § 904.1 (amended). Taking appeal

SEC. _____. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. (a) ~~An appeal may be taken from a superior court in the following cases~~ *An appeal, other than in a limited civil case, is to the court of appeal. An appeal, other than in a limited civil case, may be taken from any of the following:*

(1) From a judgment, except (A) an interlocutory judgment, other than as provided in paragraphs (8), (9), and (11), (B) a judgment of contempt which is made final and conclusive by Section 1222, *or* (C) ~~a judgment on appeal from a municipal court or a justice court or a small claims court, or~~ (D) a judgment granting or denying a petition for issuance of a writ of mandamus

or prohibition directed to a municipal court or a justice court *the superior court in a county in which there is no municipal court* or the judge or judges thereof which relates to a matter pending in the municipal or justice superior court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition, or a judgment or order for the payment of monetary sanctions, upon petition for an extraordinary writ.

(2) From an order made after a judgment made appealable by paragraph (1).

(3) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(4) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(5) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(6) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(7) From an order appointing a receiver.

(8) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(9) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(10) From an order made appealable by the provisions of the Probate Code or the Family Code.

(11) From an interlocutory judgment directing payment of monetary sanctions by a party or an attorney for a party if the amount exceeds five thousand dollars (\$5,000).

(12) From an order directing payment of monetary sanctions by a party or an attorney for a party if the amount exceeds five thousand dollars (\$5,000).

(b) Sanction orders or judgments of five thousand dollars (\$5,000) or less against a party or an attorney for a party may be

reviewed on an appeal by that party after entry of final judgment in the main action, or, at the discretion of the court of appeal, may be reviewed upon petition for an extraordinary writ.

Comment. Section 904.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Subdivision (a) implements California Constitution Article VI, Section 11(a), as it applies in civil cases (courts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within appellate jurisdiction of courts of appeal on June 30, 1995, and in other causes prescribed by statute).

Paragraph (a)(1)(C), which made nonreviewable “a judgment on appeal from municipal court or a justice court or a small claims court,” is deleted as unnecessary, because the introductory clause of Section 904.1 as amended already excludes those matters from its coverage.

Section 904.1 is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 904.2 (amended). Taking appeal in limited civil case

SEC. _____. Section 904.2 of the Code of Civil Procedure is amended to read:

904.2. ~~An appeal may be taken from a municipal or justice court in the following cases~~ *An appeal in a limited civil case is to the appellate division of the superior court. An appeal in a limited civil case may be taken from any of the following:*

(a) From a judgment, except (1) an interlocutory judgment, or (2) a judgment of contempt which is made final and conclusive by Section 1222.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order changing or refusing to change the place of trial.

(d) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(e) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(f) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(g) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(h) From an order appointing a receiver.

~~(i) From a judgment of the small claims court.~~

Comment. Section 904.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The amendment implements California Constitution Article VI, Section 11(b), as it applies in civil cases (appellate division of superior court has appellate jurisdiction in causes prescribed by statute).

For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Subdivision (i) is deleted because review of a judgment of the small claims division is governed by Section 904.5. See also Sections 116.710-116.795.

Section 904.2 is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 904.5 (amended). Small claims appeals

SEC. _____. Section 904.5 of the Code of Civil Procedure is amended to read:

904.5. Appeals from the small claims division of a ~~justice or~~ municipal *or superior* court shall be governed by the Small Claims Act (Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1).

Comment. Section 904.5 is amended to accommodate unification of the municipal and superior courts in a county. Review of a judgment of the small claims division is governed by Sections 116.710-116.795. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 911 (amended). Transfer from appellate division to court of appeal

SEC. _____. Section 911 of the Code of Civil Procedure is amended to read:

911. A court of appeal may order any case on appeal ~~within the original jurisdiction of the municipal and justice courts to a superior court~~ in its district transferred to it for hearing and decision as provided by rules of the Judicial Council when the superior court certifies, or the court of appeal determines, that such transfer appears necessary to secure uniformity of decision or to settle important questions of law.

No case in which there is a right on appeal to a trial anew in the superior court shall be transferred pursuant to this section before a decision in such case becomes final therein.

A court to which any case is transferred pursuant to this section shall have similar power to review any matter and make orders and judgments as the *appellate division of the* superior court would have in such case, except that if the case was tried anew in the superior court, the ~~reviewing court of appeal~~ shall have similar power to review any matter and make orders and judgments as it has in a case ~~within the original jurisdiction of the superior court appealed pursuant to Section 904.1.~~

Comment. Section 911 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Section 911 applies to appeals taken to the appellate division of the superior court (see Section 904.2 (taking appeal in limited civil case) and to appeals taken to the superior court where the appeal is in the form of a trial de novo (see, e.g., Section 116.770 (small claims appeals)).

Code Civ. Proc. § 912 (amended). Certification to trial court of result on appeal

SEC. _____. Section 912 of the Code of Civil Procedure is amended to read:

912. Upon final determination of an appeal by the reviewing court, the clerk of the court shall remit to the trial court a certified copy of the judgment or order of the reviewing court and of its opinion, if any. The clerk of the trial court, ~~or the judge, if there be no clerk, shall file such~~ *shall file the* certified copy of the judgment and opinion of the reviewing court, shall attach the same to the judgment roll if the appeal was from a judgment, and shall enter a note of the judgment of the reviewing court stating whether the judgment or order appealed from has been affirmed, reversed or modified, in the margin of the original entry of such judgment or order, and also in the register of actions or docket.

Comment. Section 912 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b), (e), 10.

The amendment deletes the clause authorizing the judge to substitute for the clerk if there be no clerk. That provision is obsolete because every municipal

and superior court has a clerk. Additionally, judges have authority to perform any act that court clerks are allowed to perform. Section 167.

Code Civ. Proc. § 996.430 (amended). Enforcement of liability on bond

SEC. _____. Section 996.430 of the Code of Civil Procedure is amended to read:

996.430. (a) The liability on a bond may be enforced by civil action. Both the principal and the sureties shall be joined as parties to the action.

(b) If the bond was given in an action or proceeding, the action shall be commenced in the court in which the action or proceeding was pending. If the bond was given other than in an action or proceeding, the action shall be commenced in any court of competent jurisdiction, and the amount of damage claimed in the action, not the amount of the bond, determines the ~~jurisdiction of the court~~ *jurisdictional classification of the case*.

(c) A cause of action on a bond may be transferred and assigned as other causes of action.

Comment. Section 996.430 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1014 (amended). Appearance by defendant

SEC. _____. Section 1014 of the Code of Civil Procedure is amended to read:

1014. A defendant appears in an action when ~~he~~ *the defendant* answers, demurs, files a notice of motion to strike, files a notice of motion to transfer pursuant to Section 396b, *moves for reclassification pursuant to Section 395.9*, gives the plaintiff written notice of ~~his~~ appearance, or when an attorney gives notice of appearance for ~~him~~ *the defendant*. After appearance, a defendant or ~~his~~ *the defendant's* attorney is entitled to notice of all subsequent proceedings of which notice is required to be given. Where a defendant has not appeared, service of notice or papers need not be made upon ~~him~~ *the defendant*.

Comment. Section 1014 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The amendment reflects the addition of Section 395.9 (misclassification as limited

civil case or otherwise), which sets forth a procedure for challenging a caption stating, or failing to state, that an action or proceeding is a limited civil case. See also Sections 85 (limited civil cases) & Comment, 399.5 (reclassification pursuant to Section 395.9), 400 (petition for writ of mandate), 422.30 (caption).

Code Civ. Proc. § 1033 (amended). Small recovery

SEC. _____. Section 1033 of the Code of Civil Procedure is amended to read:

1033. (a) ~~In the superior court, costs~~ *Costs* or any portion of claimed costs shall be as determined by the court in its discretion *in a case other than a limited civil case* in accordance with Section 1034 where the prevailing party recovers a judgment that could have been rendered in ~~a court of lesser jurisdiction~~ *a limited civil case*.

(b) ~~In a municipal or justice court, when~~ *When* a prevailing plaintiff *in a limited civil case* recovers less than the amount prescribed by law as the maximum limitation upon the jurisdiction of the small claims court, the following shall apply:

(1) When the party could have brought the action in the small claims court *but did not do so*, the court may, in its discretion, allow or deny costs to the prevailing party, or may allow costs in part in any amount as it deems proper.

(2) When the party could not have brought the action in small claims court, costs and necessary disbursements shall be limited to the actual cost of the filing fee, the actual cost of service of process, and, when otherwise specifically allowed by law, reasonable attorney fees. However, those costs shall only be awarded to the plaintiff if the court is satisfied that prior to the commencement of the action, the plaintiff informed the defendant in writing of the intended legal action against the defendant and that legal action could result in a judgment against the defendant which would include the costs and necessary disbursements allowed by this paragraph.

Comment. Section 1033 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court, Cal. Const. art. VI, §§ 1, 5(b),.

For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1052 (amended). Register of civil actions in municipal court

SEC. _____. Section 1052 of the Code of Civil Procedure is amended to read:

1052. The clerk of a municipal ~~or justice~~ court may keep among the records of the court a register of civil actions in which shall be entered the title of the action commenced in that court, with brief notes under it, from time to time, of all papers filed and proceedings had therein.

Comment. Section 1052 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 1052.5 (amended). Alternative methods of keeping register of actions

SEC. _____. Section 1052.5 of the Code of Civil Procedure is amended to read:

1052.5. In lieu of maintaining a register of actions as described in Section 1052, the clerk of the municipal ~~or justice~~ court may maintain a register of actions by means of photographing, microphotographing, or mechanically or electronically storing the whole content of all papers and records, or any portion thereof, as will constitute a memorandum, necessary to the keeping of a register of actions so long as the completeness and chronological sequence of the register are not disturbed.

All such reproductions shall be placed in convenient, accessible files, and provision shall be made for preserving, examining, and using them.

Any photograph, microphotograph, or photocopy which is made pursuant to this section shall be made in such manner and on such paper as will comply with the minimum standards of quality approved therefor by the National Bureau of Standards.

Comment. Section 1052.5 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 1060 (amended). Declaration of rights and duties

SEC. _____. Section 1060 of the Code of Civil Procedure is amended to read:

1060. Any person interested under a written instrument, excluding a will or a trust, or under a contract, or who desires a declaration of his or her rights or duties with respect to another, or in respect to, in, over or upon property, or with respect to the location of the natural channel of a watercourse, may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an original action or cross-complaint in the superior court or in the municipal ~~or justice~~ court to the extent allowed pursuant to Article 1 (commencing with Section 86 85) of Chapter 5 5.1 of Title 1 of Part 1 for a declaration of his or her rights and duties in the premises, including a determination of any question of construction or validity arising under the instrument or contract. He or she may ask for a declaration of rights or duties, either alone or with other relief; and the court may make a binding declaration of these rights or duties, whether or not further relief is or could be claimed at the time. The declaration may be either affirmative or negative in form and effect, and the declaration shall have the force of a final judgment. The declaration may be had before there has been any breach of the obligation in respect to which said declaration is sought.

Comment. Section 1060 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 1068 (amended). Courts authorized to grant writ of review

SEC. _____. Section 1068 of the Code of Civil Procedure is amended to read:

1068. (a) A writ of review may be granted by any court, except a municipal ~~or justice~~ court, when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court, any plain, speedy, and adequate remedy.

(b) *The appellate division of the superior court may grant a writ of review directed to the superior court in a limited civil case.*

Comment. Section 1068 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also

amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Subdivision (b) implements Constitution Article VI, Section 10. For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1085 (amended). Courts authorized to grant writ of mandate

SEC. _____. Section 1085 of the Code of Civil Procedure is amended to read:

1085. It (a) *A writ of mandate* may be issued by any court, except a municipal ~~or~~ justice court, to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station; or to compel the admission of a party to the use and enjoyment of a right or office to which ~~he~~ *the party* is entitled, and from which ~~he~~ *the party* is unlawfully precluded by such inferior tribunal, corporation, board or person.

(b) *The appellate division of the superior court may grant a writ of mandate directed to the superior court in a limited civil case.*

Comment. Section 1085 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Subdivision (b) implements Constitution Article VI, Section 10. For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1103 (amended). Courts authorized to grant writ of prohibition

SEC. _____. Section 1103 of the Code of Civil Procedure is amended to read:

1103. It (a) *A writ of prohibition* may be issued by any court, except municipal ~~or~~ justice courts, to an inferior tribunal or to a corporation, board, or person, in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon the verified petition of the person beneficially interested.

(b) *The appellate division of the superior court may grant a writ of prohibition directed to the superior court in a limited civil case.*

Comment. Section 1103 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also

amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Subdivision (b) implements Constitution Article VI, Section 10. For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1134 (amended). Judgment and costs

SEC. _____. Section 1134 of the Code of Civil Procedure is amended to read:

1134. In all courts the statement must be filed with the clerk of the court in which the judgment is to be entered, who must endorse upon it, and enter a judgment of such court for the amount confessed with the costs hereinafter set forth. At the time of filing, the plaintiff shall pay as court costs which shall become a part of the judgment the following fees: ~~in superior courts fifteen dollars (\$15) and in municipal courts and justice courts~~ *or in a limited civil case* ten dollars (\$10). No fee shall be collected from the defendant. No fee shall be paid by the clerk of the court in which said confession of judgment is filed for the law library fund nor for services of any court reporter. The statement and affidavit, with the judgment endorsed thereon, becomes the judgment roll.

Comment. Section 1134 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1140 (amended). Enforcement and appeal of judgment where controversy is submitted on agreed statement of facts

SEC. _____. Section 1140 of the Code of Civil Procedure is amended to read:

1140. The judgment may be enforced in the same manner as if it had been rendered in an action *of the same jurisdictional classification* in the same court, and is in the same manner subject to appeal.

Comment. Section 1140 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 1141.11 (amended). Arbitration of at-issue civil actions

SEC. _____. Section 1141.11 of the Code of Civil Procedure is amended to read:

1141.11. (a) In each superior court with 10 or more judges, *or 18 or more judges in a county in which there is no municipal court*, all at-issue civil actions pending on or filed after the operative date of this chapter, *other than a limited civil case*, shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifty thousand dollars (\$50,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with less than 10 judges, *or fewer than 18 judges in a county in which there is no municipal court*, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifty thousand dollars (\$50,000) for each plaintiff, which decision shall not be appealable.

(c) ~~In each municipal court district, the municipal court district~~ *Each municipal court, or superior court in a county in which there is no municipal court*, may provide by local rule, when it is determined to be in the best interests of justice, that all at-issue ~~civil actions~~ *limited civil cases* pending on or filed after the operative date of this chapter ~~in such judicial district~~, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter. This section does not apply to any action in small claims court, or to any action maintained pursuant to Section 1781 of the Civil Code or Section 1161 of this code.

(d) In each ~~municipal~~ court which has adopted judicial arbitration pursuant to subdivision (c), all ~~civil actions~~ *limited civil cases* pending on or after July 1, 1990, which involve a claim for money damages against a single defendant as a result of a motor vehicle collision, except those heard in the small claims division, shall be submitted to arbitration within 120 days of the filing of the

defendant's answer to the complaint (except as may be extended by the court for good cause) before an arbitrator selected by the court, subject to disqualification for cause as specified in Sections 170.1 and 170.6.

The court may provide by local rule for the voluntary or mandatory use of case questionnaires, established under Section 93, in any proceeding subject to these provisions. Where local rules provide for the use of case questionnaires, the questionnaires shall be exchanged by the parties upon the defendant's answer and completed and returned within 60 days.

For the purposes of this subdivision, the term "single defendant" means (1) an individual defendant, whether a person or an entity, (2) two or more persons covered by the same insurance policy applicable to the motor vehicle collision, or (3) two or more persons residing in the same household when no insurance policy exists that is applicable to the motor vehicle collision. The naming of one or more cross-defendants, not a plaintiff, shall constitute a multiple-defendant case not subject to the provisions of this subdivision.

~~(e) The provisions of this chapter shall not apply to those actions filed in a superior or municipal court which has been selected pursuant to Section 1823.1 and is participating in a pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5; provided, however, that any superior or municipal court may provide by local rule that the provisions of this chapter shall apply to actions pending on or filed after July 1, 1979. Any action filed in such court after the conclusion of the pilot project shall be subject to the provisions of this chapter.~~

~~(f)~~ (e) No local rule of a superior court providing for judicial arbitration may dispense with the conference required pursuant to Section 1141.16.

Comment. Section 1141.11 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Cf. Section 85 & Comment (limited civil cases).

Former subdivision (e) is deleted as obsolete.

Code Civ. Proc. § 1141.12 (amended). Arbitration

SEC. _____. Section 1141.12 of the Code of Civil Procedure is amended to read:

1141.12. (a) In each superior court in which arbitration may be had pursuant to subdivision (a) or (b) of Section 1141.11, upon stipulation of the parties, any at-issue civil actions shall be submitted to arbitration regardless of the amount in controversy.

(b) In all other superior, ~~municipal, and justice~~ *and municipal* courts, the Judicial Council shall provide by rule for a uniform system of arbitration of the following causes:

(i) Any cause upon stipulation of the parties, and

(ii) Upon filing of an election by the plaintiff, any cause in which the plaintiff agrees that the arbitration award shall not exceed the amount in controversy as specified in Section 1141.11.

(c) Any election by a plaintiff shall be filed no sooner than the filing of the at-issue memorandum, and no later than 90 days before trial, or at a later time if permitted by the court.

Comment. Section 1141.12 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 1161.2 (amended). Case court records

SEC. _____. Section 1161.2 of the Code of Civil Procedure is amended to read:

1161.2. (a) Except as provided in subdivision (g), in any case filed under this chapter ~~in municipal court as a limited civil case~~, the court clerk shall not allow access to the court file, index, register of actions, or other court records until 60 days following the date the complaint is filed, except pursuant to an ex parte court order upon a showing of good cause therefor by any person including, but not limited to, a newspaper publisher. However, the clerk of the court shall allow access to the court file to a party in the action, an attorney of a party in the action, or any other person who (1) provides to the clerk the names of at least one plaintiff, one defendant, and the address, including the apartment, unit, or space number, if applicable, of the subject premises, or (2) provides to the clerk the name of one of the parties or the case

number and can establish through proper identification that he or she resides at the subject premises.

(b) For purposes of this section “good cause” includes, but is not limited to, the gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code. It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subdivision (a).

(c) Except as provided in subdivision (g), upon the filing of any case so restricted, the court clerk shall mail notice to each defendant named in the action. The notice shall be mailed to the address provided in the complaint. The notice shall contain a statement that an unlawful detainer complaint (eviction action) has been filed naming that party as a defendant, and that access to the court file will be delayed for 60 days except to a party, an attorney for one of the parties, or any other person who (1) provides to the clerk the names of at least one plaintiff and one defendant in the action and provides to the clerk the address, including any applicable apartment, unit, or space number, of the subject premises, or (2) provides to the clerk the name of one of the parties in the action or the case number and can establish through proper identification that he or she lives at the subject premises. The notice shall also contain a statement that access to the court index, register of actions, or other records is not permitted until 60 days after the complaint is filed, except pursuant to an ex parte order upon a showing of good cause therefor. The notice shall contain on its face the name and phone number of the county bar association and the name and phone number of an office funded by the federal Legal Services Corporation which provides legal services to low-income persons in the county in which the action is filed. The notice shall state that these numbers may be called for legal advice regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the complaint, excluding weekends and holidays. One copy of the notice shall be addressed to “all occupants” and mailed separately to the subject premises. The notice shall not constitute service of the summons and complaint.

(d) Notwithstanding any other provision of law, the court shall, upon adoption of a resolution by the board of supervisors requiring

such a fee, charge an additional fee for filing a first appearance by the plaintiff in an amount equal in the aggregate to the actual cost of complying with this section, but which shall not exceed a maximum of four dollars (\$4). This fee shall be included as part of the total filing fee for actions filed under this chapter. Any such board resolution in effect on January 1, 1994, shall remain in effect until it is repealed.

(e) A municipal court *or the superior court in a county in which there is no municipal court*, after consultation with local associations of rental property owners, tenant groups, and providers of legal services to tenants, may exempt itself from the operation of this section upon a finding that unscrupulous eviction defense services are not a substantial problem in the judicial district. The court shall review the finding every 12 months. An exempt court shall not charge the additional fee authorized in subdivision (d).

(f) The Judicial Council shall examine the extent to which requests for access to files pursuant to an ex parte order under subdivision (a) are granted or denied, and if denied, the reason for the denial of access.

(g) This section shall not apply to a case which seeks to terminate a mobilehome park tenancy if the statement of the character of the proceeding in the caption of the complaint clearly indicates that the complaint seeks termination of a mobilehome park tenancy.

Comment. Section 1161.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Formerly, each county had one or more municipal courts and a superior court, and subdivision (a) referred to an unlawful detainer case filed in a municipal court. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 1161.2 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

For guidance in applying subdivision (e), see Section 38 (judicial districts) & Comment.

Code Civ. Proc. § 1167.2 (amended). Rent deposit pilot program

SEC. _____. Section 1167.2 of the Code of Civil Procedure is amended to read:

1167.2. (a) (1) There is hereby established a pilot project in the Los Angeles Municipal Court downtown courthouse for the Los Angeles Judicial District, for those cases within the venue of the Central Division, and the municipal courts for the County of San Bernardino. Nothing herein shall be construed to preclude those municipal courts that were implementing the pilot project as of January 1, 1996, from continuing to do so subject to the provisions of this section as amended by Assembly Bill 2966 of the 1995-96 Regular Session. Nothing herein shall preclude other municipal courts from opting to implement the pilot project *in a limited civil case*.

The pilot project shall be considered successful if delays and abuses in the unlawful detainer system are reduced, due process protections are maintained for all parties, and significant administrative burdens are not imposed on the courts. Failure to meet one or more of the numerical measurements of success shall not be interpreted as a lack of success of the project if, in the Judicial Council's view, the totality of circumstances reflect success of the project. Measurements of success shall include:

(A) A 50 percent reduction of time from filing an unlawful detainer action to regaining possession of property in cases in which a deposit demand is made as compared to cases in which a deposit demand is not made. The measurement of this reduction shall exclude any action to obtain possession of any nonresidential premises and any action in which the trial was held on the date set for the pretrial hearing and the defendant was not represented by counsel at this trial.

(B) No more than 5 percent of the unlawful detainer cases are appealed in which a demand for prospective rent is made. The measurement of this percentage shall exclude any action to obtain possession of a nonresidential premises and any action in which the trial was held on the date set for the pretrial hearing and the defendant was not represented by counsel at this trial.

(C) A 40 percent reduction of total administrative and judicial time for the courts when disposing of unlawful detainer actions in which a deposit demand is made as compared to cases in which a deposit demand is not made.

(D) No increase in costs to the courts in cases in which a deposit demand is made as compared to cases in which no deposit demand is made.

(E) Less than 1 percent of the unlawful detainer cases in which a deposit demand was made involved property subject to an outstanding violation.

(2) Criteria to be considered for determining the success of the pilot project shall include, but not be limited to, all of the following:

(A) The time for disposition of unlawful detainer cases using the pretrial rent deposit procedure as compared to cases under subdivision 2 of Section 1161 from previous years for which records are available and other unlawful detainer cases in the same time period, in which a deposit is not demanded. However, this comparison shall exclude any action to obtain possession of any nonresidential premises and any action in which the trial was held on the date set for the pretrial hearing and the defendant was not represented by counsel at this trial.

(B) The percentage of hearings that are contested as compared to failures of parties to appear at the hearing, the number of deposits ordered to be made after a hearing, the number of deposits actually made, and the number of occasions the court found a substantial conflict as to material fact or facts.

(C) The effect of the procedure on the ability of the parties to prepare and present a case at the hearing.

(D) Analysis of compliance with subdivision (d) using random samples that are sufficient to produce statistically valid data.

(E) Assessment by the courts as to the efficiency of the procedure, and whether there was an overall increase or decrease in the administrative burden of dealing with unlawful detainer cases.

(F) The number of cases in which trials are held at the time and date set for the pretrial hearing and the disposition of the cases.

Each court participating in the pilot project shall develop procedures to survey participants in the process and to gather data on its experience with the process. Survey participants shall include, but not be limited to, members of the judiciary, court

administration, court clerks, counsel for plaintiffs and defendants, landlords, tenants, sheriffs, and marshals.

The presiding judges of participating courts shall report on the success of the pilot project to the Judicial Council on or before September 30, 1998, and the Judicial Council shall report to the Legislature on or before December 31, 1998.

(b)(1) In any action for unlawful detainer brought under subdivision (2) of Section 1161, the plaintiff may make a demand for a pretrial prospective rent deposit, provided the plaintiff has alleged in the body of the unlawful detainer complaint that no citation of a type described in subdivision (c) is outstanding as of the date the complaint is filed. The demand shall be made in the body of the unlawful detainer complaint, on the first page thereof immediately under the case number, and on the summons issued by the court.

(2) The summons and complaint shall be accompanied by a reply form. The reply form shall be prepared by the Judicial Council to allow the defendant to advise the court and the plaintiff that the defendant denies the allegations of the unlawful detainer complaint and intends to appear and defend the action. The information to be contained in the form shall include, but not be limited to, the following:

(A) A statement that in order for the defendant to protect his or her rights, the form should be completed and returned to the court immediately, but in no event later than five days from receipt of the summons and complaint. The form shall be returned to the court by personal delivery or by registered or certified mail, return receipt requested, postmarked within five days from receipt of the summons and complaint.

(B) A statement that, if the form is not returned to the court in the time and manner prescribed herein, the defendant shall be required to deposit with the court the prospective rent as defined in subdivision (e) by the date of the hearing in order to preserve the right to have a trial of this matter.

(C) A statement that if the defendant does not return the form to the court as prescribed herein and subsequently fails to deposit the amount of prospective rent as defined in subdivision (d) up to and

including the date of the hearing, the court shall order judgment for possession of the premises to be entered in favor of the plaintiff at the pretrial hearing.

(3) Upon the filing of the proof of service of the summons and complaint for unlawful detainer containing a demand for a pretrial prospective rent deposit, the clerk of the court shall set a pretrial hearing date no less than eight nor more than 13 days from the filing of the proof of service, and give notice of that date to all parties by first-class mail if the plaintiff pays the fee required by Section 72055 of the Government Code, plus an additional sum in an amount set by the court to cover actual costs of the court associated with the procedure established by this section. The proceeds from this additional fee shall be deposited with the county treasurer and, upon appropriation, be available solely to the court and the county in which the court is located and shall be used exclusively for costs associated with this procedure. If the court provides procedures for holding a trial on the same date as the day scheduled for the pretrial hearing, the court shall use a Judicial Council form to inform defendants of the date, time, and place of the pretrial hearing. The form shall include a statement that is substantially in the following form:

“If you are represented by counsel on the date set for the pretrial hearing, the court may ask you to waive your right to the pretrial hearing and proceed directly to trial. If you agree, the trial will begin and you will be expected to have all your evidence and witnesses present in the courtroom. You should seriously consider whether it is in your interest to waive your right to a pretrial hearing. If you agree to waive your right to a pretrial hearing and lose at trial, judgment will be entered against you for eviction and money damages. Whereas, if you lose your pretrial hearing and fail to make the pretrial rent deposit within two court days, the court can only enter judgment for eviction without any money damages.”

(c)(1) At the pretrial hearing, the court shall determine whether a substantial conflict exists as to a material fact or facts relevant to the unlawful detainer for purposes of requiring the defendant to deposit with the clerk of the court prospective rent as defined in

subdivision (e) as a condition of continuing to trial. If at the pretrial hearing the court determines, based upon the written declarations or oral testimony of the parties, that (A) the plaintiff is the landlord of the premises, the defendant failed to pay contract rent, the defendant was properly served with a three-day notice, and the defendant failed to tender the rent or quit the premises, and (B) no substantial conflict exists as to a material fact or facts relevant to the unlawful detainer after considering any written or oral answer to the unlawful detainer complaint made by the defendant and any and all affirmative defenses offered by the defendant, and considering any oral testimony and written declarations presented by all of the parties, then the court shall have the discretion to order the defendant to deposit, with the clerk of the court, prospective rent as defined in subdivision (e). If the court orders a deposit of prospective rent and if the defendant fails to deposit the prospective rent within two court days from the date of the hearing, judgment for the plaintiff for possession of the premises shall be entered and a writ of possession for the premises shall be issued forthwith. If the defendant has not returned the reply form as described in paragraph (2) of subdivision (b) in the time and manner required, any deposit of prospective rent ordered by the court shall be made by the date of the hearing. If a defendant has not returned the reply form and then fails to deposit the prospective rent on the day of the hearing, judgment for the plaintiff for possession of the premises shall be entered and a writ of possession shall be issued forthwith. Upon entry of judgment for possession of the premises for the plaintiff pursuant to this subdivision, the court shall dismiss any claim for money relief without prejudice.

(2) For purposes of the pretrial hearing held pursuant to paragraph (1), the parties shall have the right to offer declarations, affidavits, and documentary evidence in addition to oral testimony of the parties, but no witnesses other than the parties may be called to testify. The court shall consult the parties to ascertain whether there is a substantial conflict as to a material fact or facts relevant to the unlawful detainer. The pretrial hearing of the case shall be informal, the object being to dispense justice promptly, fairly, and inexpensively. Except as provided in paragraph (3), for the

purposes of the pilot project in Los Angeles County, no attorney may take part in the conduct of the pretrial hearing unless the attorney is appearing to maintain an action (A) by or against himself or herself, (B) by or against a partnership in which he or she is a general partner and in which all the partners are attorneys, or (C) by a corporation. If an attorney appears at the pretrial hearing to maintain an action as authorized by this paragraph, an attorney may appear for the opposing party in this action.

(3) Notwithstanding whether the defendant has returned the reply form pursuant to paragraph (2) of subdivision (b), a defendant may respond to the summons and complaint with an oral answer at the pretrial hearing or by written answer, motion, or demurrer. An oral answer shall be reduced to a writing by the court clerk, recorded electronically, or recorded by a court reporter. The court, in issuing its decision, shall make findings as to the matters specified in paragraph (1) of subdivision (b), including any defenses. The decision and findings shall be reduced to a writing. If the defendant responds to the unlawful detainer by demurrer or motion, this motion or demurrer shall be filed and served pursuant to Sections 1167 and 1167.3 and shall be heard and decided at the pretrial hearing held pursuant to this section. Notwithstanding paragraph (2) of subdivision (c), attorneys may appear in any county for parties prosecuting or contesting a demurrer or motion. Notwithstanding Section 1005, papers opposing the defendant's motion or demurrer may be filed and personally served no later than one day prior to the day appointed for the hearing. If the defendant fails to respond to the unlawful detainer by written answer, motion, demurrer, or oral answer at the pretrial hearing, the court shall order judgment for possession of the premises to be entered in favor of the plaintiff forthwith at the pretrial hearing.

(4) A defendant who is represented by counsel at the pretrial hearing may be asked to stipulate to holding the trial on the date set for the pretrial hearing where the court has advised the defendant of the following in the summons: (1) that the court may ask the defendant to stipulate to holding the trial on the same date as the pretrial hearing if the defendant is represented by counsel; (2) that he or she has the right to post a deposit and have the trial set at a

later date if the court determines that a deposit is required at the pretrial hearing; (3) that if the deposit is not made, judgment for possession can only be entered against the defendant, and (4) that if trial is held, judgments for money and possession can be entered against the defendant.

In no case shall the trial be held on the same date selected for the pretrial hearing unless the defendant is represented by counsel and has been given notice as provided in paragraph (4). These provisions are nonwaivable.

(d) No deposit of prospective rent as defined in this section shall be required if the defendant has paid, or deposited with the court, all rent through the month in which the action is filed. No deposit of rent pursuant to this section shall be required if the action involves premises as to which, as of the date the complaint was filed, there was an outstanding citation issued by a state or local government agency for violations of law pertaining to health, safety, housing, building, or fire standards.

(e) "Prospective rent," for purposes of this section, means up to 15 days' prospective rent not to exceed five hundred dollars (\$500). The prospective rent shall be calculated on a prorated basis utilizing a 30-day rental period and the lowest monthly rent charged for the premises during the prior six months of the defendant's occupancy. Any deposit made by the defendant pursuant to this section shall be deposited with the clerk, by cash, cashier's check, or money order made payable to the clerk. Receipt of the deposit shall be acknowledged in writing and deposited and retained by the clerk pursuant to Section 24353 of the Government Code until further order of the court. The receipt and amount of a deposit of prospective rent shall be included in the order of the court at the conclusion of the pretrial hearing.

(f) If at trial the court determines that a breach of the warranty of habitability has occurred, that the defendant, or his or her guests or invitees did not cause the breach of this warranty, that the breach of this warranty is sufficient to diminish the value of the premises in an amount greater than 60 percent of the contract rent, and that the defendant had given the owner notice to repair or eliminate the breach, the court shall order the entire amount of prospective rent

deposited by the defendant pursuant to this section returned to the defendant. In this case, the obligation of payment of past rent for the period covered by the eviction notice shall be extinguished. In order to remain in the premises, the defendant shall pay the reduced rent from the time of trial until the defect is cured. The rights and remedies in this paragraph are in addition to any other rights and remedies relating to the habitability of dwelling units.

(g) Notwithstanding paragraph (1) of subdivision (c), any deposit made by the defendant pursuant to this section shall be awarded to the party entitled thereto by the trial court. The defendant shall be given credit to the extent of the deposit against any money judgment ordered against the defendant in a subsequent action.

(h) This section does not apply to actions for possession of a mobilehome or manufactured home, as those terms are defined in subdivision (a) of Section 1161a, and does not apply to actions for possession of real property in a mobilehome park subject to the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), or to a manufactured housing community, as defined in Section 18801 of the Health and Safety Code.

(i) Section 473 shall apply to this section.

(j) This section shall become inoperative on December 31, 1998, and shall be repealed on July 1, 1999, unless a later enacted statute, which is enacted before July 1, 1999, deletes or extends that date.

Comment. Section 1167.2(a) is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Code Civ. Proc. § 1171 (amended). Jury trial in unlawful detainer cases

SEC. _____. Section 1171 of the Code of Civil Procedure is amended to read:

1171. Whenever an issue of fact is presented by the pleadings, it must be tried by a jury, unless such jury be waived as in other cases. The jury shall be formed in the same manner as other trial

juries in an action of the same jurisdictional classification in the Court in which the action is pending.

Comment. Section 1171 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1206 (amended). Asserting preferred labor claim in connection with writ of attachment or execution

SEC. _____. Section 1206 of the Code of Civil Procedure is amended to read:

1206. Upon the levy under a writ of attachment or execution not founded upon a claim for labor, any miner, mechanic, salesman, servant, clerk, laborer or other person who has performed work or rendered personal services for the defendant within 90 days prior to the levy may file a verified statement of the claim therefor with the officer executing the writ, file a copy thereof with the court which issued the writ, and give copies thereof, containing his or her address, to the plaintiff and the defendant, or any attorney, clerk or agent representing them, or mail copies to them by registered mail at their last known address, return of which by the post office undelivered shall be deemed a sufficient service if no better address is available, and such claim, not exceeding nine hundred dollars (\$900), unless disputed, must be paid by such officer, immediately upon the expiration of the time for dispute of the claim as prescribed in Section 1207, from the proceeds of such levy remaining in the officer's hands at the time of the filing of such statement or collectible by the officer on the basis of the writ.

The court issuing the writ must make a notation on its docket of every preferred labor claim of which it receives a copy and must endorse on any writ of execution or abstract of judgment issued subsequently in the case that it is issued subject to the rights of a preferred labor claimant or claimants thereunder and giving the names and amounts of all such preferred labor claims of which it has notice. In levying under any writ of execution the officer making the levy shall include in the amount due under the execution any and all preferred labor claims that have been filed in the action and of which the officer has notice, except any claims which may have been finally disallowed by the court under the

procedure provided for herein and of which disallowance the officer has actual notice. The amount due on preferred labor claims that have not been finally disallowed by the court shall be considered a part of the sum due under any writ of attachment or execution in augmentation of the amount thereof and it shall be the duty of any person, firm, association or corporation on whom a writ of attachment or execution is levied to immediately pay to the levying officer the amount of such preferred labor claims, out of any money belonging to the defendant in the action, before paying the principal sum called for in the writ.

If any claim is disputed within the time, and in the manner prescribed in Section 1207, and a copy of the dispute is mailed by registered mail to the claimant or the claimant's attorney at the address given in the statement of claim and the registry receipt is attached to the original of the dispute when it is filed with the levying officer, or is handed to the claimant or the claimant's attorney, the claimant, or the claimant's assignee, must within 10 days after such copy is deposited in the mail or is handed to the claimant or the claimant's attorney petition the court having jurisdiction of the action on which the writ is based, for a hearing before it to determine the claim for priority, or the claim to priority is barred. If more than one attachment or execution is involved, the petition shall be filed in the court having jurisdiction over the senior attachment or execution. The hearing shall be held within 20 days from the filing of the petition unless the court continues it for good cause. Ten days' notice of the hearing shall be given by the petitioner to the plaintiff and the defendant, and to all parties claiming an interest in the property, or their attorneys. The notice may be informal and need specify merely the name of the court, names of the principal parties to the senior attachment or execution and name of the wage claimant or claimants on whose behalf it is filed but shall specify that the hearing is for the purpose of determining the claim for priority. The plaintiff or the defendant, or any other party claiming an interest may contest the amount or validity of the claim in spite of any confession of judgment or failure to appear or to contest the claim on the part of any other person.

There shall be no cost for filing or hearing the petition and the hearing on the petition shall be informal but all parties testifying must be sworn. Any claimant may appear on the claimant's own behalf at the hearing and may call and examine witnesses to substantiate his or her claim. An appeal may be taken from a judgment in a proceeding under this section in the manner provided for appeals from judgments of the court where the proceeding is had, *in an action of the same jurisdictional classification*.

The officer shall retain in possession until the determination of the claim for priority so much of the proceeds of the writ as may be necessary to satisfy the claim, and if the claim for priority is allowed, the officer shall pay the amount due, including the claimant's cost of suit, from such proceeds, immediately after the order allowing the claim becomes final.

Comment. Section 1206 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 1281.5 (amended). Application to stay pending arbitration

SEC. _____. Section 1281.5 of the Code of Civil Procedure is amended to read:

1281.5. (a) Any person, who proceeds to record and enforce a claim of lien by commencement of an action pursuant to Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, shall not thereby waive any right of arbitration which that person may have pursuant to a written agreement to arbitrate, if, in filing an action to enforce the claim of lien, the claimant at the same time presents to the court an application that the action be stayed pending the arbitration of any issue, question, or dispute which is claimed to be arbitrable under the agreement and which is relevant to the action to enforce the claim of lien. *The In a county in which there is a municipal court, the applicant may join with the application for the stay, pending arbitration, a claim of lien otherwise within the jurisdiction of the municipal court.*

(b) The failure of a defendant to file a petition pursuant to Section 1281.2 at or before the time he or she answers the complaint filed pursuant to subdivision (a) shall constitute a waiver of that party's right to compel arbitration.

Comment. Section 1281.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1283.05 (amended). Depositions in arbitration proceedings

SEC. _____. Section 1283.05 of the Code of Civil Procedure is amended to read:

1283.05. To the extent provided in Section 1283.1 depositions may be taken and discovery obtained in arbitration proceedings as follows:

(a) After the appointment of the arbitrator or arbitrators, the parties to the arbitration shall have the right to take depositions and to obtain discovery regarding the subject matter of the arbitration, and, to that end, to use and exercise all of the same rights, remedies, and procedures, and be subject to all of the same duties, liabilities, and obligations in the arbitration with respect to the subject matter thereof, as provided in Chapter 2 (commencing with Section 1985) of, and Article 3 (commencing with Section 2016) of Chapter 3 of, Title 3 of Part 4 of this code, as if the subject matter of the arbitration were pending ~~in a civil action~~ before a superior court of this state *in a civil action other than a limited civil case*, subject to the limitations as to depositions set forth in subdivision (e) of this section.

(b) The arbitrator or arbitrators themselves shall have power, in addition to the power of determining the merits of the arbitration, to enforce the rights, remedies, procedures, duties, liabilities, and obligations of discovery by the imposition of the same terms, conditions, consequences, liabilities, sanctions, and penalties as can be or may be imposed in like circumstances in a civil action by a superior court of this state under the provisions of this code, except the power to order the arrest or imprisonment of a person.

(c) The arbitrator or arbitrators may consider, determine, and make such orders imposing such terms, conditions, consequences,

liabilities, sanctions, and penalties, whenever necessary or appropriate at any time or stage in the course of the arbitration, and such orders shall be as conclusive, final, and enforceable as an arbitration award on the merits, if the making of any such order that is equivalent to an award or correction of an award is subject to the same conditions, if any, as are applicable to the making of an award or correction of an award.

(d) For the purpose of enforcing the duty to make discovery, to produce evidence or information, including books and records, and to produce persons to testify at a deposition or at a hearing, and to impose terms, conditions, consequences, liabilities, sanctions, and penalties upon a party for violation of any such duty, such party shall be deemed to include every affiliate of such party as defined in this section. For such purpose:

(1) The personnel of every such affiliate shall be deemed to be the officers, directors, managing agents, agents, and employees of such party to the same degree as each of them, respectively, bears such status to such affiliate; and

(2) The files, books, and records of every such affiliate shall be deemed to be in the possession and control of, and capable of production by, such party. As used in this section, “affiliate” of the party to the arbitration means and includes any party or person for whose immediate benefit the action or proceeding is prosecuted or defended, or an officer, director, superintendent, member, agent, employee, or managing agent of such party or person.

(e) Depositions for discovery shall not be taken unless leave to do so is first granted by the arbitrator or arbitrators.

Comment. Section 1283.05 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1287.4 (amended). Judgment on confirmation of arbitration award

SEC. _____. Section 1287.4 of the Code of Civil Procedure is amended to read:

1287.4. If an award is confirmed, judgment shall be entered in conformity therewith. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to,

a judgment in a civil action *of the same jurisdictional classification*; and it may be enforced like any other judgment of the court in which it is entered, *in an action of the same jurisdictional classification*.

Comment. Section 1287.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 86(a)(10)(A) (arbitration-related limited civil cases). See also Section 85 Comment.

Code Civ. Proc. § 1710.20 (amended). Filing of application

SEC. _____. Section 1710.20 of the Code of Civil Procedure is amended to read:

1710.20. (a) *The In a county in which there is a municipal court, the application shall be filed in a municipal or justice court in all cases in which the sister state judgment amounts to twenty-five thousand dollars (\$25,000) or less and. The application shall be filed in a superior court in all other cases.*

(b) Subject to the power of the court to transfer proceedings under this chapter pursuant to Title 4 (commencing with Section 392) of Part 2, the proper county for the filing of an application is any of the following:

- (1) The county in which any judgment debtor resides; or
- (2) If no judgment debtor is a resident, any county in this state.

(c) *A case in which the sister state judgment amounts to twenty-five thousand dollars (\$25,000) or less is a limited civil case.*

Comment. Section 1710.20 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1775.1 (amended). Definitions

SEC. _____. Section 1775.1 of the Code of Civil Procedure is amended to read:

1775.1. (a) As used in this title:

(1) “Court” means a superior court, ~~municipal court, or justice or~~ *municipal court*.

(2) “Mediation” means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.

(b) Unless otherwise specified in this title or ordered by the court, any act to be performed by a party may also be performed by his or her counsel of record.

Comment. Section 1775.1 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 2015.3 (amended). Certificate of sheriff, marshal, or court clerk

SEC. _____. Section 2015.3 of the Code of Civil Procedure is amended to read:

2015.3. The certificate of a sheriff, marshal, or the clerk of the superior, ~~municipal, or justice~~ *or municipal* court, has the same force and effect as his or her affidavit.

Comment. Section 2015.3 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

EDUCATION CODE

Educ. Code § 44944 (amended). Dismissal or suspension proceeding

SEC. _____. Section 44944 of the Education Code is amended to read:

44944. (a) In a dismissal or suspension proceeding initiated pursuant to Section 44934, if a hearing is requested by the employee, the hearing shall be commenced within 60 days from the date of the employee’s demand for a hearing. The hearing shall be initiated, conducted, and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, the hearing date shall be established after consultation with the employee and the governing board, or their representatives, and the Commission on Professional Competence shall have all the power granted to an agency in that chapter, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court

under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure. Notwithstanding any provision to the contrary, and except for the taking of oral depositions, no discovery shall occur later than 30 calendar days after the employee is served with a copy of the accusation pursuant to Section 11505 of the Government Code. In all cases, discovery shall be completed prior to seven calendar days before the date upon which the hearing commences. If any continuance is granted pursuant to Section 11524 of the Government Code, the time limitation for commencement of the hearing as provided in this subdivision shall be extended for a period of time equal to such continuance. However, the extension shall not include that period of time attributable to an unlawful refusal by either party to allow the discovery provided for in this section.

If the right of discovery granted under the preceding paragraph is denied by either the employee or the governing board, all the remedies in Section 2034 of the Code of Civil Procedure shall be available to the party seeking discovery and the court of proper jurisdiction, to entertain his or her motion, shall be the superior court of the county in which the hearing will be held.

The time periods in this section and of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall not be applied so as to deny discovery in a hearing conducted pursuant to this section.

The superior court of the county in which the hearing will be held may, upon motion of the party seeking discovery, suspend the hearing so as to comply with the requirement of the preceding paragraph.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or

evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

(b) The hearing provided for in this section shall be conducted by a Commission on Professional Competence. One member of the commission shall be selected by the employee, one member shall be selected by the governing board, and one member shall be an administrative law judge of the Office of Administrative Hearings who shall be chairperson and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing. If either the governing board or the employee for any reason fails to select a commission member at least seven calendar days prior to the date of the hearing, the failure shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. When the county board of education is also the governing board of the school district or has by statute been granted the powers of a governing board, the selection shall be made by the Superintendent of Public Instruction, who shall be reimbursed by the school district for all costs incident to the selection.

The member selected by the governing board and the member selected by the employee shall not be related to the employee and shall not be employees of the district initiating the dismissal or suspension and shall hold a currently valid credential and have at least five years' experience within the past 10 years in the discipline of the employee.

(c) The decision of the Commission on Professional Competence shall be made by a majority vote, and the commission shall prepare a written decision containing findings of fact, determinations of issues, and a disposition which shall be, solely:

- (1) That the employee should be dismissed.
- (2) That the employee should be suspended for a specific period of time without pay.
- (3) That the employee should not be dismissed or suspended.

The decision of the Commission on Professional Competence that the employee should not be dismissed or suspended shall not be based on nonsubstantive procedural errors committed by the

school district or governing board unless the errors are prejudicial errors.

The commission shall not have the power to dispose of the charge of dismissal by imposing probation or other alternative sanctions. The imposition of suspension pursuant to paragraph (2) shall be available only in a suspension proceeding authorized pursuant to subdivision (b) of Section 44932 or Section 44933.

The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board.

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section as may be necessary to effectuate this section.

The governing board and the employee shall have the right to be represented by counsel.

(d)(1) If the member selected by the governing board or the member selected by the employee is employed by any school district in this state the member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the district in which the member is employed, but shall receive no additional compensation or honorariums for service on the commission.

(2) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the current or immediately preceding contract period from the member's employing district, whichever amount is greater.

(e) If the Commission on Professional Competence determines that the employee should be dismissed or suspended, the governing board and the employee shall share equally the expenses of the hearing, including the cost of the administrative law judge. The state shall pay any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board and the member selected by the employee, including, but not limited to payments or obligations incurred for travel, meals, and lodging, and the cost of the substitute or substitutes, if any, for the

member selected by the governing board and the member selected by the employee. The Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations, and forms for the submission of the claims. The employee and the governing board shall pay their own attorney fees.

If the Commission on Professional Competence determines that the employee should not be dismissed or suspended, the governing board shall pay the expenses of the hearing, including the cost of the administrative law judge, any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board and the member selected by the employee, including, but not limited to payments or obligations incurred for travel, meals, and lodging, the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee, and reasonable attorney fees incurred by the employee.

As used in this section, "reasonable expenses" shall not be deemed "compensation" within the meaning of subdivision (d).

If either the governing board or the employee petitions a court of competent jurisdiction for review of the decision of the commission, the payment of expenses to members of the commission required by this subdivision shall not be stayed.

In the event that the decision of the commission is finally reversed or vacated by a court of competent jurisdiction, then either the state, having paid the commission members' expenses, shall be entitled to reimbursement from the governing board for those expenses, or the governing board, having paid the expenses, shall be entitled to reimbursement from the state.

Additionally, either the employee, having paid a portion of the expenses of the hearing, including the cost of the administrative law judge, shall be entitled to reimbursement from the governing board for the expenses, or the governing board, having paid its portion and the employee's portion of the expenses of the hearing, including the cost of the administrative law judge, shall be entitled

to reimbursement from the employee for that portion of the expenses.

(f) The hearing provided for in this section shall be conducted in a place selected by agreement among the members of the commission. In the absence of agreement, the place shall be selected by the administrative law judge.

Comment. Section 44944 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Educ. Code § 45312 (amended). Hearing or investigation by hearing officer

SEC. _____. Section 45312 of the Education Code is amended to read:

45312. The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

Comment. Section 45312 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Educ. Code § 48294 (amended). Payment of fines

SEC. _____. Section 48294 of the Education Code is amended to read:

48294. All fines paid as penalties for the violation of any of the provisions of this chapter shall, when collected or received, be paid over by the justice court or officer receiving them to the treasurer of the city, county, or city and county, in which the offense was committed, to be placed to the credit of the school fund of the school district in which the offense was committed. Such moneys shall be used to support the activities of the school attendance review board prescribed by Section 48291 and the parent education and counseling program prescribed by Section 48293.

Comment. Section 48294 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Educ. Code § 48295 (amended). Jurisdiction

SEC. _____. Section 48295 of the Education Code is amended to read:

48295. Any judge of a municipal ~~or justice court~~, *in the judicial district* in which the school district is located, or in which the offense is committed, *or judge of the superior court in a county in which there is no municipal court*, has jurisdiction of offenses committed under this article. A juvenile court has jurisdiction of a violation of Section 48293 as provided by Section 601.4 of the Welfare and Institutions Code.

Comment. Section 48295 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Educ. Code § 87675 (amended). Arbitration proceedings

SEC. _____. Section 87675 of the Education Code is amended to read:

87675. The arbitrator shall conduct proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the right of discovery of the parties shall not be limited to those matters set

forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*. In all cases, discovery shall be completed prior to one week before the date set for hearing. The arbitrator shall determine whether there is cause to dismiss or penalize the employee. If the arbitrator finds cause, the arbitrator shall determine whether the employee shall be dismissed, the precise penalty to be imposed, and whether the decision should be imposed immediately or postponed pursuant to Section 87672.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters that occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

Comment. Section 87675 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Educ. Code § 87679 (amended). Conduct of proceedings

SEC. _____. Section 87679 of the Education Code is amended to read:

87679. The administrative law judge shall conduct proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*. In all cases, discovery shall be completed prior to one week before the date set for hearing. The written notice delivered to the employee pursuant to Section 87672 shall be deemed an

accusation. The written objection of the employee delivered pursuant to Section 87673 shall be deemed the notice of defense.

Comment. Section 87679 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Educ. Code § 88131 (amended). Hearing or investigation by hearing officer

SEC. _____. Section 88131 of the Education Code is amended to read:

88131. The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

Comment. Section 88131 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

ELECTIONS CODE

Elec. Code § 325 (amended). Judicial district

SEC. _____. Section 325 of the Elections Code is amended to read:

325. “Judicial district” includes municipal court district ~~and justice court district~~.

Comment. Section 325 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 327 (amended). Judicial officer

SEC. _____. Section 327 of the Elections Code is amended to read:

327. “Judicial officer” means any Justice of the Supreme Court, justice of a court of appeal, judge of the superior court, *or* judge of a municipal court, ~~or judge of a justice court~~.

Comment. Section 327 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 8203 (amended). Incumbents

SEC. _____. Section 8203 of the Elections Code is amended to read:

8203. In any county or any judicial district in which only the incumbent has filed nomination papers for the office of superior court judge, ~~municipal court judge, or justice or municipal court judge~~, his or her name shall not appear on the ballot unless there is filed with the elections official, within 10 days after the final date for filing nomination papers for the office, a petition indicating that a write-in campaign will be conducted for the office and signed by 100 registered voters qualified to vote with respect to the office.

If a petition indicating that a write-in campaign will be conducted for the office at the general election, signed by 100 registered voters qualified to vote with respect to the office, is filed with the elections official not less than 83 days before the general election, the name of the incumbent shall be placed on the general election ballot if it has not appeared on the direct primary election ballot.

If, in conformity with this section, the name of the incumbent does not appear either on the primary ballot or general election ballot, the elections official, on the day of the general election, shall declare the incumbent reelected. Certificates of election specified in Section 15401 or 15504 shall not be issued to a person reelected pursuant to this section before the day of the general election.

Comment. Section 8203 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 13107 (amended). Ballot designations

SEC. _____. Section 13107 of the Elections Code is amended to read:

13107. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior, ~~municipal, or justice~~ *or municipal* court judge.

(2) The word “incumbent” if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by a vote of the people, or, in the case of a superior, ~~municipal, or justice~~ *or municipal* court judge, was appointed to that office.

(3) No more than three words designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents. For purposes of this section, all California geographical names shall be considered to be one word.

(4) The phrase “appointed incumbent” if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the

candidate is a candidate for election to the same office or to some other office, the word “appointed” and the title of the office. In either instance, the candidate may not use the unmodified word “incumbent” or any words designating the office unmodified by the word “appointed.” However, the phrase “appointed incumbent” shall not be required of a candidate who seeks reelection to an office which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326 and 5328 of the Education Code or Section 7228, 7423, 7673, 10229, or 10515 of this code.

(b) Neither the Secretary of State nor any other election official shall accept a designation of which any of the following would be true:

(1) It would mislead the voter.

(2) It would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) It abbreviates the word “retired” or places it following any word or words which it modifies.

(4) It uses a word or prefix, such as “former” or “ex-,” which means a prior status. The only exception is the use of the word “retired.”

(5) It uses the name of any political party, whether or not it has qualified for the ballot.

(6) It uses a word or words referring to a racial, religious, or ethnic group.

(7) It refers to any activity prohibited by law.

(c) If, upon checking the nomination documents, the election official finds the designation to be in violation of any of the restrictions set forth in this section, the election official shall notify the candidate by registered or certified mail return receipt requested, addressed to the mailing address appearing on the candidate’s nomination documents.

(1) The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation.

(2) In the event the candidate fails to provide an alternate designation, no designation shall appear after the candidate's name.

(d) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination documents, except as specifically requested by the elections official as specified in subdivision (c) or as provided in subdivision (e).

(e) The designation shall remain the same for all purposes of both primary and general elections, unless the candidate, at least 98 days prior to the general election, requests in writing a different designation which the candidate is entitled to use at the time of the request.

(f) In all cases, words so used shall be printed in 8-point roman uppercase and lowercase type except that, if the designation selected is so long that it would conflict with the space requirements of Sections 13207 and 13211, the elections official shall use a type size for the designation for each candidate for that office sufficiently smaller to meet these requirements.

(g) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965 (42 U.S.C.A. Sec. 1971), as amended, to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

Comment. Section 13107 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 13109 (amended). Order of offices listed on ballot

SEC. _____. Section 13109 of the Elections Code is amended to read:

13109. The order of precedence of offices on the ballot shall be as listed below for those offices and measures that apply to the election for which this ballot is provided. Beginning in the column to the left:

(a) Under the heading, PRESIDENT AND VICE PRESIDENT:

Nominees of the qualified political parties and independent nominees for President and Vice President.

(b) Under the heading, PRESIDENT OF THE UNITED STATES:

(1) Names of the presidential candidates to whom the delegates are pledged.

(2) Names of chairpersons of unpledged delegations.

(c) Under the heading, STATE:

(1) Governor.

(2) Lieutenant Governor.

(3) Secretary of State.

(4) Controller.

(5) Treasurer.

(6) Attorney General.

(7) Insurance Commissioner.

(8) Member, State Board of Equalization.

(d) Under the heading, UNITED STATES SENATOR:

Candidates or nominees to the United States Senate.

(e) Under the heading, UNITED STATES REPRESENTATIVE:

Candidates or nominees to the House of Representatives of the United States.

(f) Under the heading, STATE SENATOR:

Candidates or nominees to the State Senate.

(g) Under the heading, MEMBER OF THE STATE ASSEMBLY:

Candidates or nominees to the Assembly.

(h) Under the heading, COUNTY COMMITTEE:

Members of County Central Committee.

(i) Under the heading, JUDICIAL:

(1) Chief Justice of California.

(2) Associate Justice of the Supreme Court.

(3) Presiding Justice, Court of Appeal.

(4) Associate Justice, Court of Appeal.

(5) Judge of the Superior Court.

(6) Judge of the Municipal Court.

(7) Marshal.

(8) Constable.

(j) Under the heading, SCHOOL:

- (1) Superintendent of Public Instruction.
- (2) County Superintendent of Schools.
- (3) County Board of Education Members.
- (4) College District Governing Board Members.
- (5) Unified District Governing Board Members.
- (6) High School District Governing Board Members.
- (7) Elementary District Governing Board Members.

(k) Under the heading, COUNTY:

- (1) County Supervisor.
- (2) Other offices in alphabetical order by the title of the office.

(l) Under the heading, CITY:

- (1) Mayor.
- (2) Member, City Council.
- (3) Other offices in alphabetical order by the title of the office.

(m) Under the heading, DISTRICT:

Directors or trustees for each district in alphabetical order according to the name of the district.

(n) Under the heading, MEASURES SUBMITTED TO THE VOTERS and the appropriate heading from subdivisions (a) through (m), above, ballot measures in the order, state through district shown above, and within each jurisdiction, in the order prescribed by the official certifying them for the ballot.

(o) In order to allow for the most efficient use of space on the ballot in counties that use a voting system, as defined in Section 362, the county elections official may vary the order of subdivisions (j), (k), (l), (m), and (n) as well as the order of offices within these subdivisions. However, the office of Superintendent of Public Instruction shall always precede any school, county, or city office, and state measures shall always precede local measures.

Comment. Section 13109 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 13111 (amended). Names on ballot

SEC. _____. Section 13111 of the Elections Code is amended to read:

13111. Candidates for each office shall be printed on the ballot in accordance with the following rules:

(a) The names of presidential candidates to whom candidates for delegate to the national convention are pledged, and the names of chairpersons of groups of candidates for delegate expressing no preference, shall be arranged on the primary election ballot by the Secretary of State by the names of the candidates in accordance with the randomized alphabet as provided for in Section 13112 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(b) The names of the pairs of candidates for President and Vice President shall be arranged on the general election ballot by the Secretary of State by the names of the candidates for President in accordance with the randomized alphabet as provided for in Section 13112 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the pair appearing first in the last preceding Assembly district shall be placed last, the order of the other pairs remaining unchanged.

(c) In the case of all other offices, the candidates for which are to be voted on throughout the state, the Secretary of State shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 13112 for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(d) If the office is that of Representative in Congress or member of the State Board of Equalization, the Secretary of State shall arrange the names of candidates for the office in accordance with the randomized alphabet as provided for in Section 13112 for that Assembly district that has the lowest number of all the Assembly districts in which candidates are to be voted on. Thereafter, for each succeeding Assembly district in which the candidates are to be voted on, the names appearing first in the last preceding

Assembly district shall be placed last, the order of the other names remaining unchanged.

(e) If the office is that of State Senator or Member of the Assembly, the county elections official shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 13112, unless the district encompasses more than one county, in which case the arrangement shall be made pursuant to subdivision (i).

(f) If the office is to be voted upon wholly within, but not throughout, one county, as in the case of municipal, district, county supervisor, municipal court, ~~justice—court~~, and county central committee offices, the official responsible for conducting the election shall determine the order of names in accordance with the randomized alphabet as provided for in Section 13112.

(g) If the office is to be voted on throughout a single county, and there are not more than four Assembly districts wholly or partly in the county, the county elections official shall determine the order of names in accordance with the randomized alphabet as provided for in Section 13112 for the first supervisorial district. Thereafter, for each succeeding supervisorial district, the name appearing first for each office in the last preceding supervisorial district shall be placed last, the order of the other names remaining unchanged.

(h) If there are five or more Assembly districts wholly or partly in the county, an identical procedure shall be followed, except that rotation shall be by Assembly district, commencing with the Assembly district which has the lowest number.

(i) Except as provided in subdivision (d) of Section 13112, if the office is that of State Senator or Member of the Assembly, and the district includes more than one county, the county elections official in each county shall conduct a drawing of the letters of the alphabet, pursuant to the same procedures specified in Section 13112. The results of the drawing shall be known as a county randomized ballot and shall be used only to arrange the names of the candidates when the district includes more than one county.

(j) If the office is that of Justice of the California Supreme Court or a Court of Appeal, the appropriate elections officials shall arrange the names of the candidates for the office in accordance

with the randomized alphabet as provided for in Section 13112. However, the names of the judicial candidates shall not be rotated among the applicable districts.

Comment. Section 13111 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

EVIDENCE CODE

Evid. Code § 300 (amended). Application of code

SEC. _____. Section 300 of the Evidence Code is amended to read:

300. Except as otherwise provided by statute, this code applies in every action before the Supreme Court or a court of appeal, superior court, *or* municipal court, ~~or justice court~~, including proceedings in such actions conducted by a referee, court commissioner, or similar officer, but does not apply in grand jury proceedings.

Comment. Section 300 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

FAMILY CODE

Fam. Code § 400 (amended). Persons authorized to perform marriages

SEC. _____. Section 400 of the Family Code is amended to read:

400. Marriage may be solemnized by any of the following who is of the age of 18 years or older:

(a) A priest, minister, or rabbi of any religious denomination.

(b) A judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record ~~or justice court~~ in this state.

(c) A judge or magistrate who has resigned from office.

(d) Any of the following judges or magistrates of the United States:

(1) A justice or retired justice of the United States Supreme Court.

(2) A judge or retired judge of a court of appeals, a district court, or a court created by an act of Congress the judges of which are entitled to hold office during good behavior.

(3) A judge or retired judge of a bankruptcy court or a tax court.

(4) A United States magistrate or retired magistrate.

Comment. Section 400 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

FINANCIAL CODE

Fin. Code § 1785 (amended). Foreign bank

SEC. _____. Section 1785 of the Financial Code is amended to read:

1785. (a) If the commissioner finds that any of the factors set forth in Section 1781 is true with respect to any foreign (other nation) bank which is licensed to transact business in this state and that it is necessary for the protection of the interests of the creditors of such bank's business in this state or for the protection of the public interest that he or she take immediate possession of the property and business of the bank, the commissioner may by order forthwith take possession of the property and business of the bank and retain possession until the bank resumes business in this state or is finally liquidated. The bank may, with the consent of the commissioner, resume business in this state upon such conditions as the commissioner may prescribe.

(b) (1) Whenever the commissioner takes possession of the property and business of a foreign (other nation) bank pursuant to subdivision (a), such bank may, within 10 days, apply to the superior court in the county in which the primary office of the bank is located to enjoin further proceedings. The court may, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, dismiss such application or enjoin the commissioner from further proceedings and order him or her to surrender the property and business of the bank to the bank or make such further order as may be just.

(2) The judgment of the court may be appealed by the commissioner or by the bank in the manner provided by law for

appeals from the judgment of a superior court *to the court of appeal*. In case the commissioner appeals the judgment of the court, such appeal shall operate as a stay of the judgment, and the commissioner shall not be required to post any bond.

(c) Whenever the commissioner takes possession of the property and business of a foreign (other nation) bank pursuant to subdivision (a), the commissioner shall conserve or liquidate the property and business of such bank pursuant to Articles 1 (commencing with Section 3100), 3 (commencing with Section 3160) and 6 (commencing with Section 3220) of Chapter 17, and the provisions of such articles (except Sections 3100, 3101, 3102, and 3126) shall apply as if the bank were a bank organized under the laws of this state.

(d) When the commissioner has completed the liquidation of the property and business of a foreign (other nation) bank, the commissioner shall transfer any remaining assets to such bank in accordance with such orders as the court may issue. However, in case the bank has an office in another state of the United States which is in liquidation and the assets of such office appear to be insufficient to pay in full the creditors of the office, the court shall order the commissioner to transfer to the liquidator of the office such amount of any such remaining assets as appears to be necessary to cover such insufficiency; if there are two or more such offices and the amount of remaining assets is less than the aggregate amount of insufficiencies with respect to the offices, the court shall order the commissioner to distribute the remaining assets among the liquidators of such offices in such manner as the court finds equitable.

Comment. Section 1785 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 1824 (amended). Appeal

SEC. _____. Section 1824 of the Financial Code is amended to read:

1824. An appeal may be taken from the judgment of the court by the commissioner or by the licensee in the manner provided by law

for appeals from the judgment of a superior court *to the court of appeal*.

Comment. Section 1824 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 1893 (amended). Possession by commissioner

SEC. _____. Section 1893 of the Financial Code is amended to read:

1893. (a) If the commissioner finds that any of the factors set forth in Section 1889 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of traveler's checks issued by the licensee or for the protection of the public interest that the commissioner take immediate possession of the property and business of the licensee, the commissioner may by order forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the commissioner, resume business upon such conditions as the commissioner may prescribe.

(b) Whenever the commissioner takes possession of the property and business of a licensee pursuant to subdivision (a), the licensee may, within 10 days, apply to the superior court in any county of this state in which an office of the licensee is located (or, in case the licensee has no office in this state, in the County of Sacramento, in the City and County of San Francisco, or in the County of Los Angeles) to enjoin further proceedings. The court may, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the commissioner from further proceedings and order the commissioner to surrender the property and business of the licensee to the licensee or make such further order as may be just. The judgment of the superior court may be appealed by the commissioner or by the licensee in the manner provided by law for appeals from the judgment of a superior court *to the court of appeal*.

(c) Whenever the commissioner takes possession of the property and business of a licensee pursuant to subdivision (a), the

commissioner shall conserve or liquidate the property and business of the licensee pursuant to Article 1 (commencing with Section 3100) of Chapter 17, and the provisions of that article (except Sections 3100, 3101, and 3102) apply as if the licensee were a bank.

Comment. Section 1893 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 3102 (amended). Appeal

SEC. _____. Section 3102 of the Financial Code is amended to read:

3102. An appeal may be taken from the judgment of the court by the commissioner or by the bank in the manner provided by law for appeals from the judgment of a superior court *to the court of appeal*.

Comment. Section 3102 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 16154 (amended). Appeal

SEC. _____. Section 16154 of the Financial Code is amended to read:

16154. An appeal may be taken from the judgment of the court by the commissioner or by the corporation in the manner provided by law for appeals from the judgment of a superior court *to the court of appeal*. An appeal from the judgment of the court shall not operate as a stay of the judgment unless the court, on good cause, so orders. No bond need be given if an appeal is taken by the commissioner but if the appeal is taken by the corporation a bond shall be given as required by Sections 917.2 and 917.5 of the Code of Civil Procedure as condition to any stay.

Comment. Section 16154 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 17335 (amended). Appeal

SEC. _____. Section 17335 of the Financial Code is amended to read:

17335. An appeal may be taken from the judgment of the court by the commissioner or by Fidelity Corporation in the manner

provided by law for appeals from the judgment of a superior court *to the court of appeal*. An appeal from the judgment of the court does not operate as a stay of the judgment unless the court, on good cause, so orders. No bond need be given if the appeal is taken by the commissioner, but if the appeal is taken by Fidelity Corporation a bond shall be given as required by Sections 917.2 and 917.5 of the Code of Civil Procedure as a condition to any stay.

Comment. Section 17335 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 18415.2 (amended). Appeal

SEC. _____. Section 18415.2 of the Financial Code is amended to read:

18415.2. An appeal may be taken from the judgment of the court by the commissioner or by the industrial loan company in the manner provided by law for appeals from the judgment of a superior court *to the court of appeal*.

Comment. Section 18415.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 18495 (amended). Appeal

SEC. _____. Section 18495 of the Financial Code is amended to read:

18495. An appeal may be taken from the judgment of the court by the commissioner or by Guaranty Corporation in the manner provided by law for appeals from the judgment of a superior court *to the court of appeal*. An appeal from the judgment of the court does not operate as a stay of the judgment unless the court, on good cause, so orders.

Comment. Section 18495 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 31713 (amended). Possession by commissioner

SEC. _____. Section 31713 of the Financial Code is amended to read:

31713. (a) If the commissioner finds that any of the factors set forth in Section 31709 is true with respect to any licensee and that

it is necessary for the protection of the interests of the licensee or for the protection of the public interest that the commissioner take immediate possession of the property and business of the licensee, the commissioner may forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the commissioner, resume business upon such conditions as he or she may prescribe.

(b) Whenever the commissioner takes possession of the property and business of a licensee pursuant to subdivision (a), the licensee may apply within 10 days to the superior court in the county in which the head office of the licensee is located to enjoin further proceedings. The court, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, may dismiss the application or enjoin the commissioner from further proceedings and order the commissioner to surrender the property and business of the licensee to the licensee or make such further order as may be just.

(c) An appeal may be taken from the judgment of the superior court by the commissioner or by the licensee in the manner provided by law for appeals from the judgment of a superior court *to the court of appeal*. An appeal from the judgment of the superior court shall operate as a stay of the judgment. No bond need be given if the appeal is taken by the commissioner, but if the appeal is taken by the licensee, a bond shall be given as required by the Code of Civil Procedure.

(d) Whenever the commissioner takes possession of the property and business of a licensee pursuant to subdivision (a), the commissioner shall conserve or liquidate the property and business of the licensee pursuant to Article 1 (commencing with Section 3100), Chapter 17, Division 1, and the provisions of that article (except Sections 3100, 3101, and 3102) shall apply as if the licensee were a bank.

Comment. Section 31713 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 34113 (amended). Possession by commissioner

SEC. _____. Section 34113 of the Financial Code is amended to read:

34113. (a) If the commissioner finds that any of the factors set forth in Section 34109 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of payment instruments issued by the licensee or for the protection of the public interest that the commissioner take immediate possession of the property and business of the licensee, the commissioner may by order forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the commissioner, resume business upon such conditions as the commissioner may prescribe.

(b) Whenever the commissioner takes possession of the property and business of a licensee pursuant to subdivision (a), the licensee may, within 10 days, apply to the superior court in any county of this state in which an office of the licensee is located (or, in case the licensee has no office in this state, in the County of Sacramento, in the City and County of San Francisco, or in the County of Los Angeles) to enjoin further proceedings. The court may, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the commissioner from further proceedings and order the commissioner to surrender the property and business of the licensee to the licensee or make such further order as may be just. The judgment of the superior court may be appealed by the commissioner or by the licensee in the manner provided by law for appeals from the judgment of a superior court *to the court of appeal*.

(c) Whenever the commissioner takes possession of the property and business of a licensee pursuant to subdivision (a), the commissioner shall conserve or liquidate the property and business of the licensee pursuant to Article 1 (commencing with Section 3100), Chapter 17, Division 1, and the provisions of the article (except Sections 3100, 3101, and 3102) apply as if the licensee were a bank.

Comment. Section 34113 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

FISH AND GAME CODE

Fish & Game Code § 210 (amended). Regulations

SEC. _____. Section 210 of the Fish and Game Code is amended to read:

210. (a) The commission shall provide copies of the regulations added, amended, or repealed pursuant to subdivision (e) of Section 206, subdivision (e) of Section 207, and subdivision (d) of Section 208 to each county clerk, each district attorney, and each judge of a municipal court ~~or justice court~~ *or of the superior court in a county in which there is no municipal court*, in the state.

(b) The commission and the department may do anything that is deemed necessary and proper to publicize and distribute regulations so that persons likely to be affected will be informed of them. The failure of the commission to provide any notice of its regulations, other than by filing them in accordance with Section 215, shall not impair the validity of the regulations.

(c) The department or the license agent may give a copy of the current applicable published regulations to each person issued a license at the time the license is issued.

(d) Notwithstanding any other provision of law, the commission and the department may contract with private entities to print regulations and other regulatory and public information. Printing contracts authorized by this subdivision and for which no state funds are expended are not subject to Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, except for Article 2 (commencing with Section 10295) of Chapter 2.

Comment. Section 210 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Fish & Game Code § 309 (amended). Depositions

SEC. _____. Section 309 of the Fish and Game Code is amended to read:

309. The commission or any person appointed by it to conduct a hearing may, in any investigation or hearing, cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for deposition in civil actions in the superior courts of this state *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*, and may compel the attendance of witnesses and the production of documents and papers. The commission shall adopt regulations which afford procedural and substantive due process to any person whose license or permit is subject to revocation or suspension. Except upon conviction of a violation of this code or a regulation adopted pursuant to this code relating to the licensed or permitted activity and notwithstanding any other provision of this code, the commission shall not revoke or suspend any license or permit until the regulations required by this section have been adopted and approved by the Office of Administrative Law pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Section 309 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fish & Game Code § 2357 (amended). Trout affidavit

SEC. _____. Section 2357 of the Fish and Game Code is amended to read:

2357. It is unlawful to carry trout into an area where the season is closed unless an affidavit is made in duplicate before ~~the nearest judge of the justice court or~~ a notary public in the area in which the trout are or might be lawfully taken. Such affidavit shall state the date and place of taking such trout, and the name, address, and number of the angling license of the person legally taking such trout. The duplicate of the affidavit shall be left on file with the ~~judge of the justice court or~~ notary public before whom the affidavit is made.

Comment. Section 2357 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The amendment does not substitute a municipal court judge for the justice court judge.

Fish & Game Code § 4341 (amended). Deer tag

SEC. _____. Section 4341 of the Fish and Game Code is amended to read:

4341. Any person legally killing a deer in this State shall have the license tag countersigned by a person employed in the department, a person designated for this purpose by the commission, or by a ~~judge of a justice court~~, notary public, postmaster, peace officer, or an officer authorized to administer oaths, before transporting such deer, except for the purpose of taking it to the nearest person authorized to countersign the license tag, on the route being followed from the point where the deer is taken.

Comment. Section 4341 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The amendment does not substitute a municipal court judge for the justice court judge.

Fish & Game Code § 4755 (amended). License tag to be countersigned

SEC. _____. Section 4755 of the Fish and Game Code is amended to read:

4755. Any person legally killing a bear in this State shall have the license tag countersigned by a fish and game commissioner, a person employed in the department, a person designated for this purpose by the commission, or by a ~~justice of the peace~~, notary public, postmaster, peace officer or by an officer authorized to administer oaths, before transporting such bear except for the purpose of taking it to the nearest officer authorized to countersign the license tag, on the route being followed from the point where the bear is taken.

Comment. Section 4755 is amended to reflect elimination of the office of justice of the peace.

Fish & Game Code § 5934 (amended). Depositions

SEC. _____. Section 5934 of the Fish and Game Code is amended to read:

5934. The commission or any party may, in any hearing, cause the deposition of witnesses to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this State *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure.*

Comment. Section 5934 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fish & Game Code § 12150 (amended). Hunting accidents

SEC. _____. Section 12150 of the Fish and Game Code is amended to read:

12150. Whenever any person, while taking a bird or mammal, kills or wounds any human being and that fact is ascertained by the department, the department shall notify the district attorney of the county in which the act occurred. The district attorney may thereupon bring an action in the municipal ~~or justice~~ court of the judicial district in which the act occurred *or in the superior court in a county in which there is no municipal court* for the purpose of determining the cause of the killing or the wounding. Such proceedings shall be conducted in the same manner as an action to try a misdemeanor and the defendant may request that all findings of fact shall be made by a jury. The court shall inform the defendant of the nature of the proceedings and of ~~his~~ *the defendant's* right to have a jury.

If it is found that such person did the killing or wounding but that it was not intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it is found that such person did the killing or wounding intentionally, by an act of gross negligence, or while under the influence of alcohol, the court shall issue an order permanently prohibiting ~~him~~ *the defendant* from taking any bird or mammal.

If it is found that such person was negligent, but not grossly negligent, the court shall issue an order prohibiting ~~him~~ *the defendant* from taking any bird or mammal for a period specified at the discretion of the court but not less than five years.

Comment. Section 12150 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). While a proceeding under this section is noncriminal in character, the procedures to be

followed are *sui generis*. In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Fish & Game Code § 12151 (amended). Domestic animals

SEC. _____. Section 12151 of the Fish and Game Code is amended to read:

12151. Whenever any person, while taking a bird or mammal, kills or wounds any domestic animal belonging to another and that fact is ascertained by the department, the department shall notify the district attorney of the county in which the act occurred. The district attorney may thereupon bring an action in the municipal or justice court of the judicial district in which the act occurred *or in the superior court in a county in which there is no municipal court* for the purpose of determining the cause of the killing or wounding. Such proceedings shall be conducted in the same manner as an action to try a misdemeanor and the defendant may request that all findings of fact shall be made by a jury. The court shall inform the defendant of the nature of the proceedings and of *his the defendant’s* right to have a jury.

If it is found that such person did the killing or wounding but that it was not intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it is found that such person did the killing or wounding intentionally or negligently, the court shall issue an order prohibiting ~~him~~ *the defendant* from taking any bird or mammal for a period of five years.

Comment. Section 12151 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). While a proceeding under this section is noncriminal in character, the procedures to be followed are *sui generis*. In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

FOOD AND AGRICULTURAL CODE

Food & Agric. Code § 7581 (amended). Court jurisdiction

SEC. _____. Section 7581 of the Food and Agricultural Code is amended to read:

7581. ~~In actions which arise~~ *A proceeding* pursuant to this article:

~~(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five~~ *twenty-five* thousand dollars (~~\$5,000~~ *\$25,000*) or less *is a limited civil case*.

~~(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less.~~

Comment. Section 7581 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 7581 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 12647 (amended). Court jurisdiction

SEC. _____. Section 12647 of the Food and Agricultural Code is amended to read:

12647. ~~In actions which arise~~ *A proceeding* pursuant to this article:

~~(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five~~ *twenty-five* thousand dollars (~~\$5,000~~ *\$25,000*) or less *is a limited civil case*.

~~(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less.~~

Comment. Section 12647 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal.

Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 12647 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 25564 (amended). Abatement of nuisance

SEC. _____. Section 25564 of the Food and Agricultural Code is amended to read:

25564. If the lot of poultry meat which is held is perishable or subject to rapid deterioration, the enforcing officer may file a verified petition in any superior or ~~inferior~~ *municipal* court of the state to destroy such lot or otherwise abate the nuisance. The petition shall show the condition of the lot, that the lot is situated within the county, that the lot is held, and that notice of noncompliance has been served pursuant to this chapter. The court may thereupon order that such lot be forthwith destroyed or the nuisance otherwise abated as set forth in such order.

Comment. Section 25564 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Food & Agric. Code § 27601 (amended). Abatement of nuisance

SEC. _____. Section 27601 of the Food and Agricultural Code is amended to read:

27601. Upon the request of the director or an authorized representative, the district attorney of the county in which the eggs and their containers which are a public nuisance are found, shall maintain, in the name of the people of the State of California, a civil action to abate and prevent the public nuisance.

Upon judgment and by order of the court, the eggs and their containers which are a public nuisance shall be condemned and destroyed in the manner which is directed by the court, or reconditioned, re-marked, denatured, or otherwise processed, or released upon the conditions as the court in its discretion may impose to ensure that the nuisance is abated.

If the owner fails to comply with the order of the court within the time specified in the order, the court may order disposal of the eggs and their containers or their sale, under the terms and conditions as the court may prescribe, by the enforcement officer, or by the sheriff or marshal.

If the court orders the sale of any of the eggs and their containers which can be salvaged, the costs of disposal shall be deducted from the proceeds of sale and the balance paid into court for the owner.

~~In actions arising~~ *A proceeding* pursuant to this chapter or any regulation adopted pursuant to this chapter ~~the following limits shall apply:~~

~~(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five~~ *twenty-five* thousand dollars ~~(\$5,000~~ *\$25,000*) or less *is a limited civil case*.

~~(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less.~~

A public nuisance described in this section may only be abated in any action or proceeding pursuant to the remedies provided by this chapter. This chapter provides the exclusive source of costs and civil penalties which may be assessed by reason of the public nuisance against the owner of eggs and their containers which are found to be a public nuisance.

Comment. Section 27601 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 27601 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 29733 (amended). Abatement of nuisance

SEC. _____. Section 29733 of the Food and Agricultural Code is amended to read:

29733. If a packer or owner of honey, or the agent of either, after notification to ~~him~~ *the packer, owner, or agent* that the honey and its containers are a public nuisance, refuses, or fails within a reasonable time, to recondition or remark the honey so as to comply with all requirements of this chapter, the honey and its containers:

(a) May be seized by the director or any enforcement officer.

(b) By order of the ~~justice, municipal,~~ *municipal* or superior court of the county or city within which the honey and its containers may be, shall be condemned and destroyed, or released upon such conditions as the court, in its discretion, may impose to insure that it will not be packed, delivered for shipment, shipped, transported, or sold in violation of this chapter.

Comment. Section 29733 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Food & Agric. Code § 30801 (amended). Dog licenses

SEC. _____. Section 30801 of the Food and Agricultural Code is amended to read:

30801. (a) A board of supervisors may provide for the issuance of serially numbered metallic dog licenses pursuant to this section. The dog licenses shall be:

(1) Stamped with the name of the county and the year of issue.

(2) Unless the board of supervisors designates the animal control department to issue the licenses, issued by the county clerk directly or through judges of ~~justice or municipal courts~~ *or the superior court in a county in which there is no municipal court*, to owners of dogs, that make application.

(b) The licenses shall be issued for a period of not to exceed two years.

(c) In addition to the authority provided in subdivisions (a) and (b), a license may be issued, as provided by this section, by a board of supervisors for a period not to exceed three years for dogs that have attained the age of 12 months, or older, and who have been vaccinated against rabies. The person to whom the license is to be issued pursuant to this subdivision may choose a license period as

established by the board of supervisors of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination.

Comment. Section 30801 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Food & Agric. Code § 31503 (amended). Damage by dog

SEC. _____. Section 31503 of the Food and Agricultural Code is amended to read:

31503. If any person sustains any loss or damage to any livestock or poultry which is caused by a dog, or if any livestock of any person is necessarily destroyed because of having been bitten by a dog, the person may file a complaint with any judge of the ~~justice or~~ municipal court of the county within which the damage occurred *or of the superior court in a county in which there is no municipal court. A proceeding under this section is a limited civil case.*

Comment. Section 31503 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Food & Agric. Code § 31621 (amended). Dangerous or vicious dog

SEC. _____. Section 31621 of the Food and Agricultural Code is amended to read:

31621. If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the chief officer of the public pound or animal control department or his or her immediate supervisor or the head of the local law enforcement agency, or his or her designee, shall petition the municipal court within the judicial district wherein the dog is owned or kept *or the*

superior court in a county in which there is no municipal court for a hearing for the purpose of determining whether or not the dog in question should be declared potentially dangerous or vicious. *A proceeding under this section is a limited civil case.* A city or county may establish an administrative hearing procedure to hear and dispose of petitions filed pursuant to this chapter. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition. The chief officer of the public pound or animal control department or head of the local law enforcement agency shall notify the owner or keeper of the dog that a hearing will be held by the municipal court, *the superior court*, or the hearing entity, as the case may be, at which time he or she may present evidence as to why the dog should not be declared potentially dangerous or vicious. The owner or keeper of the dog shall be served with notice of the hearing and a copy of the petition, either personally or by first-class mail with return receipt requested. The hearing shall be held promptly within no less than five working days nor more than 10 working days after service of notice upon the owner or keeper of the dog. The hearing shall be open to the public. The court may admit into evidence all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. A jury shall not be available. The court may find, upon a preponderance of the evidence, that the dog is potentially dangerous or vicious and make other orders authorized by this chapter.

Comment. Section 31621 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Food & Agric. Code § 31622 (amended). Proceedings concerning dog

SEC. _____. Section 31622 of the Food and Agricultural Code is amended to read:

31622. (a) After the hearing conducted pursuant to Section 31621, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the court or hearing entity. If a determination is made that the dog is potentially dangerous or vicious, the owner or keeper shall comply with Article 3 (commencing with Section 31641) in accordance with a time schedule established by the chief officer of the public pound or animal control department or the head of the local law enforcement agency, but in no case more than 30 days after the date of the determination or 35 days if notice of the determination is mailed to the owner or keeper of the dog. If the petitioner or the owner or keeper of the dog contests the determination, he or she may, within five days of the receipt of the notice of determination, appeal the decision of the court or hearing entity of original jurisdiction to a court authorized to hear the appeal. The fee for filing an appeal shall be twenty dollars (\$20), payable to the county clerk. If the original hearing held pursuant to Section 31621 was before a hearing entity other than ~~the municipal~~ a court of the jurisdiction, appeal shall be to the municipal court *or superior court in a county in which there is no municipal court*. If the original hearing was held in the municipal court, appeal shall be to the superior court ~~within the judicial district wherein the dog is owned or kept~~. *If the original hearing was held in the superior court, appeal shall be to the superior court before a judge other than the judge who originally heard the petition.* The petitioner or the owner or keeper of the dog shall serve personally or by first-class mail, postage prepaid, notice of the appeal upon the other party.

(b) The court hearing the appeal shall conduct a hearing de novo, without a jury, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The hearing shall be conducted in the same manner and within the time periods set forth in Section 31621 and subdivision (a). The court may admit all

relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. The issue shall be decided upon the preponderance of the evidence. If the court rules the dog to be potentially dangerous or vicious, the court may establish a time schedule to ensure compliance with this chapter, but in no case more than 30 days subsequent to the date of the court's determination or 35 days if the service of the judgment is by first-class mail.

Comment. Section 31622 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Food & Agric. Code § 43039 (amended). Abatement of nuisance

SEC. _____. Section 43039 of the Food and Agricultural Code is amended to read:

43039. If the lot which is held is perishable or subject to rapid deterioration, the enforcing officer may file a verified petition in any superior or ~~inferior~~ *municipal* court of the state to destroy the lot or otherwise abate the nuisance. The petition shall show the condition of the lot, that the lot is situated within the county, that the lot is held, and that notice of noncompliance has been served as provided in this article. The court may thereupon order that the lot be forthwith destroyed or the nuisance otherwise abated as set forth in the order.

Comment. Section 43039 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Food & Agric. Code § 52514 (amended). Court jurisdiction

SEC. _____. Section 52514 of the Food and Agricultural Code is amended to read:

52514. ~~In actions arising~~ *A proceeding* pursuant to this article, ~~the following courts shall have original jurisdiction:~~

~~(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to three~~ *twenty-five* thousand dollars (\$3,000 *\$25,000*) or less *is a limited civil case.*

~~(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less.~~

Comment. Section 52514 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 52541 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 53564 (amended). Court jurisdiction

SEC. _____. Section 53564 of the Food and Agricultural Code is amended to read:

53564. ~~In actions arising~~ *A proceeding* pursuant to this article, ~~the following courts shall have original jurisdiction:~~

~~(a) Municipal courts shall have original jurisdiction where the value of the property is five~~ *twenty-five* thousand dollars (\$5,000 *\$25,000*) or less *is a limited civil case.*

~~(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less.~~

Comment. Section 53564 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 53564 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 59289 (amended). Diversion or destruction of lot

SEC. _____. Section 59289 of the Food and Agricultural Code is amended to read:

59289. The enforcing officer may file a verified petition in any superior or ~~inferior~~ *municipal* court of this state requesting permission to divert such lot to any other available lawful use or to destroy such lot. Such verified ~~position~~ *petition* shall show all of the following:

- (a) The condition of the lot.
- (b) That the lot is situated within the territorial jurisdiction of the court in which the petition is being filed.
- (c) That the lot is held, and that the notice of noncompliance has been served as provided in Section 59285.
- (d) That the lot has not been reconditioned as required.
- (e) The name and address of the owner and the person in possession of the lot.
- (f) That the owner has refused permission to divert or to destroy the lot.

Comment. Section 59289 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

GOVERNMENT CODE

Gov't Code § 910 (amended). Contents of claim

SEC. _____. Section 910 of the Government Code is amended to read:

910. A claim shall be presented by the claimant or by a person acting on his or her behalf and shall show all of the following:

- (a) The name and post office address of the claimant.
- (b) The post office address to which the person presenting the claim desires notices to be sent.
- (c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.
- (d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.
- (e) The name or names of the public employee or employees causing the injury, damage, or loss, if known.

(f) The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether ~~jurisdiction over the claim would rest in municipal or superior court~~ *the claim would be a limited civil case*.

Comment. Section 6301 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (limited civil cases) & Comment.

Gov't Code § 945.3 (amended). Action against peace officer

SEC. _____. Section 945.3 of the Government Code is amended to read:

945.3. No person charged by indictment, information, complaint, or other accusatory pleading charging a criminal offense may bring a civil action for money or damages against a peace officer or the public entity employing a peace officer based upon conduct of the peace officer relating to the offense for which the accused is charged, including an act or omission in investigating or reporting the offense or arresting or detaining the accused, while the charges against the accused are pending before a justice, ~~municipal,~~ *municipal* or superior court.

Any applicable statute of limitations for filing and prosecuting these actions shall be tolled during the period that the charges are pending before a justice, ~~municipal,~~ *municipal* or superior court.

For the purposes of this section, charges pending before a justice, ~~municipal,~~ *municipal* or superior court do not include appeals or criminal proceedings diverted pursuant to Chapter 2.5 (commencing with Section 1000), Chapter 2.6 (commencing with Section 1000.6), Chapter 2.7 (commencing with Section 1001), Chapter 2.8 (commencing with Section 1001.20), or Chapter 2.9 (commencing with Section 1001.50) of Title 6 of Part 2 of the Penal Code.

Nothing in this section shall prohibit the filing of a claim with the board of a public entity, and this section shall not extend the time within which a claim is required to be presented pursuant to Section 911.2.

Comment. Section 945.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 990.2 (amended). Public officer insurance

SEC. _____. Section 990.2 of the Government Code is amended to read:

990.2. A county may insure any officer or attache of its superior, ~~municipal and justice~~ *and municipal* courts against all or any part of ~~his~~ *the officer or attaché's* liability for injury resulting from any act or omission in the scope of ~~his~~ *the officer or attaché's* employment, and also may insure against the expense of defending any claim against such officer or attache, whether or not liability exists on such claim.

Comment. Section 990.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 1770 (amended). Vacancy

SEC. _____. Section 1770 of the Government Code is amended to read:

1770. An office becomes vacant on the happening of any of the following events before the expiration of the term:

(a) The death of the incumbent.

(b) An adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his or her office for the remainder of his or her term. This subdivision shall not apply to offices created by the California Constitution nor to federal or state legislators.

(c) His or her resignation.

(d) His or her removal from office.

(e) His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county, or city for which the officer was chosen

or appointed, or within which the duties of his or her office are required to be discharged. However, the office of judge of a municipal or justice court shall not become vacant when, as a result of a change in the boundaries of a judicial district during an incumbent's term, the incumbent ceases to be an inhabitant of the district for which he or she was elected or appointed to serve.

(f) His or her absence from the state without the permission required by law beyond the period allowed by law.

(g) His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.

(h) His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For the purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

(i) His or her refusal or neglect to file his or her required oath or bond within the time prescribed.

(j) The decision of a competent tribunal declaring void his or her election or appointment.

(k) The making of an order vacating his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.

(l) His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

Comment. Section 1770 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 3075 (added). Appeal in proceedings for removal from office

SEC. _____. Section 3075 is added to the Government Code, to read:

3075. In a proceeding under this article, appeal is to the court of appeal.

Comment. Section 3075 preserves the effect of pre-unification law that provides for appeals in superior court cases to the court of appeal. See Cal. Const. art. VI, § 11.

Gov't Code § 3501.6 (amended). Transfer of functions

SEC. _____. Section 3501.6 of the Government Code is amended to read:

3501.6. (a) In any transfer of functions from county employees to superior, ~~municipal, or justice~~ or *municipal* court employees occurring on or after January 1, 1992, the court shall continue to recognize the employee organization which represented the employees performing those functions at the time of the transfer of duties. The court shall also be bound by the terms of any memorandum of understanding that is in effect as of the date of the transfer of functions for the duration thereof, or until replaced by a subsequent memorandum of understanding.

(b) Notwithstanding Article 8 (commencing with Section 69890) of Chapter 5 of Title 8, merit personnel systems including the county civil service system and a system of discipline for cause only, shall be within the scope of representation by employee organizations for court employees affected by a transfer of functions as described in subdivision (a) unless otherwise prohibited by the charter of the county.

Comment. Section 3501.6 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 6701 (amended). Holidays

SEC. _____. Section 6701 of the Government Code is amended to read:

6701. If January 1st, February 12th, March 31st, July 4th, September 9th, November 11th, or December 25th falls upon a Sunday, the Monday following is a holiday. If November 11th falls upon a Saturday, the preceding Friday is a holiday.

If any holiday designated in Section 6700 falls on a Saturday, the board of supervisors of any county may by ordinance or resolution provide that an alternate day shall be a holiday for the employees

of the county, except those employees of the county working as court attaches or as clerks of the superior, ~~municipal, or justice or municipal~~ courts.

Comment. Section 6701 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 11189 (amended). Depositions

SEC. _____. Section 11189 of the Government Code is amended to read:

11189. In any matter pending before ~~him~~ a department head, *the department head* may cause the deposition of persons residing within or without the State to be taken by causing a petition to be filed in the Superior Court in the County of Sacramento reciting the nature of the matter pending, the name and residence of the person whose testimony is desired, and asking that an order be made requiring ~~him~~ *the person* to appear and testify before an officer named in the petition for that purpose. Upon the filing of the petition the court may make an order requiring the person to appear and testify in the manner prescribed by law for like depositions in civil actions in the superior courts of this State *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*. In the same manner the superior courts may compel the attendance of persons as witnesses, *and* the production of papers, books, accounts, and documents, *under Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure*, and may punish for contempt.

Comment. Section 11189 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 11511 (amended). Depositions

SEC. _____. Section 11511 of the Government Code is amended to read:

11511. On verified petition of any party, an administrative law judge or, if an administrative law judge has not been appointed, an agency may order that the testimony of any material witness residing within or without the state be taken by deposition in the manner prescribed by law for depositions in civil actions *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4*

of Part 4 of the Code of Civil Procedure. The petition shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is desired; a showing of the materiality of the testimony; a showing that the witness will be unable or can not be compelled to attend; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. The petitioner shall serve notice of hearing and a copy of the petition on the other parties at least 10 days before the hearing. Where the witness resides outside the state and where the administrative law judge or agency has ordered the taking of the testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition therefor in the superior court in Sacramento County. The proceedings thereon shall be in accordance with the provisions of Section 11189.

Comment. Section 11511 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 12965 (amended). Unlawful labor practices

SEC. _____. Section 12965 of the Government Code is amended to read:

12965. (a) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation or persuasion, or in advance thereof if circumstances warrant, the director in his or her discretion may cause to be issued in the name of the department a written accusation. The accusation shall contain the name of the person, employer, labor organization or employment agency accused, which shall be known as the respondent, shall set forth the nature of the charges, shall be served upon the respondent together with a copy of the verified complaint, as amended, and shall require the respondent to answer the charges at a hearing.

For any complaint treated by the director as a group or class complaint for purposes of investigation, conciliation, and accusation pursuant to Section 12961, an accusation shall be issued, if at all, within two years after the filing of the complaint. For all other complaints, an accusation shall be issued, if at all, within one year after the filing of a complaint. If the director determines, pursuant to Section 12961, that a complaint

investigated as a group or class complaint under Section 12961 is to be treated as a group or class complaint for purposes of conciliation and accusation as well, such determination shall be made and shall be communicated in writing within one year after the filing of the complaint to each person, employer, labor organization, employment agency, or public entity alleged in the complaint to have committed an unlawful practice.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify, in writing, the person claiming to be aggrieved that the department shall issue, on his or her request, the right-to-sue notice. This notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization or employment agency named in the verified complaint within one year from the date of that notice. If the person claiming to be aggrieved does not request a right-to-sue notice, the department shall issue the notice upon completion of its investigation, and not later than one year after the filing of the complaint. A city, county, or district attorney in a location having an enforcement unit established on or before March 1, 1991, pursuant to a local ordinance enacted for the purpose of prosecuting AIDS/HIV discrimination claims, acting on behalf of any person claiming to be aggrieved due to HIV/AIDS discrimination, may also bring a civil action under this part against the person, employer, labor organization, or employment agency named in the notice. The superior, ~~municipal, and justice~~ *and municipal* courts of the State of California shall have jurisdiction of those actions, and the aggrieved person may file in any of these courts. Such an action may be brought in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to the practice are maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation but for the alleged unlawful practice, but if the defendant is not found within any of these counties an action may be brought within the county of defendant's residence

or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the commission. The remedy for failure to send a copy of a complaint is an order to do so. Those actions may not be filed as class actions or may not be maintained as class actions by the person or persons claiming to be aggrieved where those persons have filed a civil class action in the federal courts alleging a comparable claim of employment discrimination against the same defendant or defendants. In actions brought under this section, the court, in its discretion may award to the prevailing party reasonable attorney fees and costs except where such action is filed by a public agency or a public official, acting in an official capacity.

(c)(1) If an accusation or amended accusation includes a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or for both, the respondent may within 30 days after service of the accusation or amended accusation, elect to transfer the proceedings to a court in lieu of a hearing pursuant to subdivision (a) by serving a written notice to that effect on the department, the commission, and the person claiming to be aggrieved. The commission shall prescribe the form and manner of giving written notice.

(2) No later than 30 days after the completion of service of the notice of election pursuant to paragraph (1), the department shall dismiss the accusation and shall, either itself or, at its election, through the Attorney General, file in the appropriate court an action in its own name on behalf of the person claiming to be aggrieved as the real party in interest. In this action, the person claiming to be aggrieved shall be the real party in interest and shall have the right to participate as a party and be represented by his or her own counsel. Complaints filed pursuant to this section shall be filed in the appropriate superior, ~~municipal~~, or justice *or municipal* court in any county in which unlawful practices are alleged to have been committed, in the county in which records relevant to the alleged unlawful practices are maintained and administered, or in the county in which the person claiming to be aggrieved would have worked or would have had access to public accommodation, but for the alleged unlawful practices. If the defendant is not found

in any of these counties, the action may be brought within the county of the defendant's residence or principal office. Those actions shall be assigned to the court's delay reduction program, or otherwise given priority for disposition by the court in which the action is filed.

(3) A court may grant as relief in any action filed pursuant to this subdivision any relief a court is empowered to grant in a civil action brought pursuant to subdivision (b), in addition to any other relief that, in the judgment of the court, will effectuate the purpose of this part.

(4) The department may amend an accusation to pray for either damages for emotional injury or for administrative fines, or both, provided that the amendment is made within 30 days of the issuance of the original accusation.

Comment. Section 12965 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 12972 (amended). Commission procedures

SEC. _____. Section 12972 of the Government Code is amended to read:

12972. (a) The commission shall conduct all actions and procedures in accordance with either of the following:

(1) Chapter 5 (commencing with Section 11500) of Part 1, except as otherwise specified by this part.

(2) Regulations adopted by the commission.

(b) In addition to the discovery available to each party pursuant to subdivision (a), the department and the respondent may each cause a single deposition to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this state *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*.

Comment. Section 12972 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 12980 (amended). Procedure

SEC. _____. Section 12980 of the Government Code is amended to read:

12980. This article governs the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955, 12955.1, or 12955.7 may file with the department a verified complaint in writing that shall state the name and address of the person alleged to have committed the violation complained of, and that shall set forth the particulars thereof and contain any other information required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless the judgment is a dismissal entered at the complainant's request.

(b) The Attorney General or the director may, in a like manner, make, sign, and file complaints citing practices that appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

No complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

(c) The department may thereupon proceed upon the complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than the provisions of Article 1 (commencing with Section 12960), the provisions of this article shall prevail.

(d) Upon the filing of a complaint, the department shall serve notice upon the complainant of the time limits, rights of the parties, and choice of forums provided for under the law, and shall also provide a written explanation that informs the complainant that, if an accusation is issued, the complainant may only be able to recover damages for emotional distress or other intangible injuries through a civil action filed under Section 12989.

(e) The department shall commence proceedings with respect to a complaint within 30 days of filing of the complaint.

(f) An investigation of allegations contained in any complaint filed with the department shall be completed within 100 days after receipt of the complaint, unless it is impracticable to do so. If the investigation is not completed within 100 days, the complainant and respondent shall be notified, in writing, of the department's reasons for not doing so.

(g) Upon the conclusion of each investigation, the department shall prepare a final investigative report containing all of the following:

(1) The names of any witnesses and the dates of any contacts with those witnesses.

(2) A summary of the dates of any correspondence or other contacts with the aggrieved persons or the respondent.

(3) A summary of witness statements.

(4) Answers to interrogatories.

(5) A summary description of other pertinent records.

A final investigative report may be amended if additional evidence is later discovered.

(h) If an accusation is not issued within 100 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 100-day period, whichever date first occurs. The notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within the time period specified in Section 12989.1 of the Government Code. The notice shall also indicate, unless the department has determined that no accusation will be issued, that the person claiming to be aggrieved has the option of continuing to seek redress for the alleged discrimination through the procedures of the department if he or she does not desire to file a civil action. The superior, ~~municipal~~, and justice *and municipal* courts of the State of California shall have jurisdiction of these actions, and the aggrieved person may file in any of these courts. The action may be brought in any county in the state in which the violation is

alleged to have been committed, or in the county in which the records relevant to the alleged violation are maintained and administered, but if the defendant is not found within that county, the action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the commission. The remedy for failure to send a copy of a complaint is an order to do so. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

(i) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be made public, unless otherwise agreed by the complainant and respondent, and the department determines that the disclosure is not required to further the purposes of the act.

(j) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be agreements between the respondent and complainant, and shall be subject to approval by the department.

Comment. Section 12980 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 15422 (amended). Public defender

SEC. _____. Section 15422 of the Government Code is amended to read:

15422. Where a county public defender has refused, or is otherwise reasonably unable to represent a person because of conflict of interest or other reason, the State Public Defender is authorized to represent such person, pursuant to a contract with the county which provides for reimbursement of costs, where the person is not financially able to employ counsel and is charged with the commission of any contempt or offense triable in the superior, ~~municipal, or justice~~ or *municipal* courts at all stages of any proceedings relating to such charge, including restrictions on liberty resulting from such charge. Except in cases of representation under subdivision (d) of Section 15421, the State Public Defender may decline to represent such person by filing a

letter with the appropriate court citing Section 15420 of this chapter.

Comment. Section 15422 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 18671 (amended). Hearings

SEC. _____. Section 18671 of the Government Code is amended to read:

18671. Such hearings and investigations may be conducted by the board, any member, or any authorized representative of the board. Any authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this State *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*.

Comment. Section 18671 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 23220 (amended). Courts in county after boundary change

SEC. _____. Section 23220 of the Government Code is amended to read:

23220. On and after the effective date of the boundary change, the superior court and the municipal ~~or justice~~ courts in each affected county shall retain jurisdiction in all cases pending in a session of those courts.

Comment. Section 23220 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 23296 (amended). Municipal courts in transferred counties

SEC. _____. Section 23296 of the Government Code is amended to read:

23296. Those municipal ~~and justice~~ court districts in the transferring county which are located within the boundaries of the territory which is transferred immediately prior to its transfer shall

continue in existence for all purposes with the same name, judges, officers, attaches, and other employees.

Comment. Section 23296 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 23398 (amended). Municipal courts in transferred county

SEC. _____. Section 23398 of the Government Code is amended to read:

23398. Those municipal ~~and justice court~~ districts in the affected county or counties which are located within the boundaries of the proposed county immediately prior to its creation shall continue in existence for all purposes in the proposed county with the same name, judges, officers, attaches, and other employees.

Comment. Section 23398 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 23579 (amended). Municipal courts in consolidated counties

SEC. _____. Section 23579 of the Government Code is amended to read:

23579. Those municipal ~~and justice court~~ districts in the affected counties immediately prior to consolidation shall continue in existence for all purposes in the consolidated county with the same name, judges, officers, attaches and other employees.

Comment. Section 23579 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 24055 (amended). Fines and forfeitures

SEC. _____. Section 24055 of the Government Code is amended to read:

24055. Any clerk, ~~judge of a justice court,~~ or sheriff who receives any fine or forfeiture and refuses or neglects to pay it over according to law and within 30 days after its receipt is guilty of a misdemeanor.

Comment. Section 24055 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 24057 (amended). Oaths

SEC. _____. Section 24057 of the Government Code is amended to read:

24057. Every county officer and ~~his~~ *the officer's* deputies ~~and every judge of a justice court~~ may administer and certify oaths.

Comment. Section 24057 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 25351.3 (amended). Board of supervisors powers

SEC. _____. Section 25351.3 of the Government Code is amended to read:

25351.3. In addition to its other powers and duties, the board of supervisors may do any or all of the following:

(a) Acquire land for and construct, lease, sublease, build, furnish, refurnish, or repair buildings for ~~justice, municipal,~~ *municipal* or superior courts and for convention and exhibition halls, trade and industrial centers, auditoriums, opera houses, music halls and centers, motion picture and television museums, and related facilities used for public assembly purposes for the use, benefit and enjoyment of the public, including offstreet parking places for motor vehicles, ways of ingress and egress, and any other facilities and improvements necessary or convenient for their use.

(b) Acquire land and construct buildings, structures and facilities thereon, in whole or in part, with county funds or it may, by contract or lease with any nonprofit association or corporation, provide for the acquisition of land or the construction of buildings, structures and facilities, or all or any part thereof, for public assembly purposes, upon the terms the board may determine.

(c) Lease, pursuant to Section 25371, any real property owned by the county and available for public assembly purposes to any person, firm, corporation, or nonprofit association or corporation for public assembly purposes, with the person, firm, corporation, or nonprofit association or corporation to lease the real property, as improved, back to the county for use for the purposes stated in the lease. Any lease authorized by the board under this subdivision, except leases for ~~justice, municipal,~~ *municipal* or superior courts, which may be entered into without advertising for bids, shall be

awarded to the lowest responsible bidder after public competitive bidding conducted in the manner determined by the board. Notice inviting bids shall be published pursuant to Section 6066 in a newspaper as the board may direct.

(d) Enter into a lease or sublease, without advertising for bids therefor, of buildings, structures, and facilities or any of them with any nonprofit association or corporation which agrees to use the buildings, structures, and facilities so leased to it for the public assembly purposes for which they were or are to be built; or contract, without advertising, for bids with any nonprofit association or corporation for the maintenance, operation, and management of the buildings, structures, and facilities, or any part thereof used for public assembly purposes, including the scheduling and promotion of events therein, for a specified term, not to exceed 40 years, upon terms and conditions as may be agreed upon. The leases, subleases, or contracts shall provide that, at least annually, there shall be paid to the county the net revenue, if any, from the operation and use of the facilities, remaining after the payment of expenses and costs, if any, for maintenance, operation or management, interest, and principal payments upon loans to the nonprofit corporation or association for purposes of maintenance, operation, or management, and any other expenses, and after providing maintenance and operation reserves. The lease, sublease, or contract shall also provide that, upon its expiration, all of the assets of the nonprofit association or corporation after payment or discharge of its indebtedness and liabilities shall be transferred to the county.

(e) If the county has a population in excess of 4,000,000, without advertising for bids therefor, grant any real property owned by the county, or lease, for a term not to exceed 99 years, any real property owned by the county, to any city, district, or other public entity for any of the above public assembly purposes, without consideration, except the agreement of the grantee or lessee to use the real property for the public assembly purposes specified, and upon terms and conditions which may be agreed upon by the board and the grantee or lessee.

The amendment to this section enacted by Chapter 755 of the Statutes of 1963 shall not be construed to affect or modify the duty of any county or board of supervisors to provide adequate quarters for courts but is intended to provide an alternative method of financing the acquisition of property and buildings for use for courthouse purposes.

Comment. Section 25351.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 25560.4 (amended). Court buildings

SEC. _____. Section 25560.4 of the Government Code is amended to read:

25560.4. The board of supervisors of any county may, by a four-fifths vote of the members, use or dedicate any portion of any land acquired by the county by means of special assessment proceedings for park purposes, for the erection and maintenance of one or more buildings to house any justice,~~municipal~~, *municipal* or superior court, or one or more departments or divisions of any one or more of such courts if the portion of the land to be so used or dedicated has not been used by the public for park purposes for a period of more than 10 years.

Comment. Section 25560.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26299.008 (amended). Court facilities

SEC. _____. Section 26299.008 of the Government Code is amended to read:

26299.008. "Court facilities" means the justice,~~municipal~~, *municipal* and superior courts of the county, as well as any other facilities used for adult or juvenile court matters, criminal prosecutions, handling inmates, or a combination thereof.

Comment. Section 26299.008 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26524 (amended). Judge as party defendant

SEC. _____. Section 26524 of the Government Code is amended to read:

26524. Upon request of any judge of the superior, ~~municipal~~, or justice or *municipal* court, the district attorney shall appear for and represent the court or judge if the court or judge in his or her official capacity is a party defendant in any action.

Comment. Section 2652.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26665 (amended). Writs and notices

SEC. _____. Section 26665 of the Government Code is amended to read:

26665. All writs, notices, or other process issued by superior, ~~municipal~~, or justice or *municipal* courts in civil actions or proceedings may be served by any duly qualified and acting marshal or sheriff of any county in the State, subject to the Code of Civil Procedure.

Comment. Section 26665 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26806 (amended). Interpreters

SEC. _____. Section 26806 of the Government Code is amended to read:

26806. (a) In counties having a population of 900,000 or over, the county clerk may employ as many foreign language interpreters as may be necessary to interpret in criminal cases in the superior, ~~municipal~~, and justice and *municipal* courts, and in the juvenile court within the county and to translate documents intended for filing in any civil or criminal action or proceeding or for recordation in the county recorder's office.

(b) The county clerk, as clerk of the superior court, shall, when interpreters are needed, assign the interpreters so employed to interpret in criminal and juvenile cases in the superior court. When their services are needed, ~~he~~ *the clerk* shall also assign interpreters so employed to interpret in criminal cases in ~~municipal and justice~~ courts.

(c) The county clerk may also assign the interpreters so employed to interpret in civil cases in superior, ~~municipal~~, and justice and *municipal* courts when their services are not required in criminal or juvenile cases and when so assigned, they shall collect

from the litigants the fee fixed by the court and shall deposit the same in the county treasury.

(d) The interpreters so employed shall, when assigned to do so by the county clerk, translate documents to be recorded or to be filed in any civil or criminal action or proceeding. The fee to be collected for translating each such document shall be three dollars (\$3) per folio for the first folio or part thereof, and two cents (\$0.02) for each word thereafter. For preparing a carbon copy of such translation made at the time of preparing the original, the fee shall be twelve cents (\$0.12) per folio or any part thereof. All such fees shall be deposited in the county treasury.

Comment. Section 26806 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26820 (amended). Fees collected by clerk

SEC. _____. Section 26820 of the Government Code is amended to read:

26820. The county clerk shall charge and collect the fees fixed in this article *and in Article 2 (commencing with Section 72053) of Chapter 8 of Title 8* for service performed by ~~him~~ *the clerk*, when not otherwise provided by law.

Comment. Section 26820 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 26820.4 (amended). First filing fee

SEC. _____. Section 26820.4 of the Government Code is amended to read:

26820.4. The total fee for filing of the first paper in a civil action or proceeding in the superior court, ~~except other than in a limited civil case or~~ *an adoption proceeding*, shall be one hundred eighty-five dollars (\$185).

This section applies to the initial complaint, petition, or application, and the papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 704.750, or 708.160 of the Code of Civil Procedure.

Comment. Section 26820.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov’t Code § 26824 (amended). Filing fee for appeal

SEC. _____. Section 26824 of the Government Code is amended to read:

26824. The fee for filing a notice of appeal ~~from a municipal or justice court in a civil action or a special proceeding to the appellate division of the superior court in a limited civil case~~ is fifty dollars (\$50). The Judicial Council may make rules governing the time and method of payment and providing for excuse.

Comment. Section 26824 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov’t Code § 26826 (amended). Filing fee for defendant

SEC. _____. Section 26826 of the Government Code is amended to read:

26826. (a) The total fee for filing the first paper in the action *described in Section 26820.4* on behalf of any defendant, intervenor, respondent, or adverse party, whether separately or jointly, except for the purpose of making disclaimer shall be one hundred eighty-two dollars (\$182).

(b) As used in this section the term “paper” does not include any of the following:

(1) A stipulation for the appointment of a temporary judge or of a court investigator, or the report made by the court investigator.

(2) The declaration of a spouse filed in an order to show cause proceeding.

(3) A marital settlement agreement which is signed by a defaulted respondent and intended for incorporation in a proposed decree of dissolution of marriage.

(4) A stipulation regarding the date of termination of the marital status when the court has retained jurisdiction over that date.

(5) A document relating to a stipulated postjudgment modification of child support.

(6) A stipulation to modify a marital settlement agreement which was signed by a defaulted respondent and incorporated in a decree of dissolution if the stipulation is presented by the petitioner.

Comment. Section 26826 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 26826.01 (amended). Filing fee for amended complaint or cross-complaint

SEC. _____. Section 26826.01 of the Government Code is amended to read:

26826.01. (a) The fee for filing an amended complaint or amendment to a complaint in a civil action or proceeding in the superior court *other than in a limited civil case* is seventy-five dollars (\$75).

(b) The fee for filing a cross-complaint, amended cross-complaint, or amendment to a cross-complaint in a civil action or proceeding in the superior court *other than in a limited civil case* is seventy-five dollars (\$75).

(c) A party shall not be required to pay the fee provided by this section for an amended complaint, amendment to a complaint, amended cross-complaint, or amendment to a cross-complaint more than one time in any action.

(d) The fee provided by this section shall not apply to any of the following:

(1) An amended pleading or amendment to a pleading ordered by the court to be filed.

(2) An amended pleading or amendment to a pleading that only names previously fictitiously named defendants.

(e) This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. Section 26826.01 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 26863 (amended). Automation fee

SEC. _____. Section 26863 of the Government Code is amended to read:

26863. (a) The board of supervisors of any county may provide for an additional fee of one dollar (\$1) for filings in a civil action or proceeding, as specified in Section 68090.7, to defray the cost of automating the county clerk and municipal ~~and justice~~ court recordkeeping system and conversion of the county clerk and municipal ~~and justice~~ court document storage system to micrographics.

(b) The board of supervisors may increase this additional fee to not more than three dollars (\$3) if it expends an additional, matching amount from the county general fund, equal to the revenue derived from the increase, exclusively to pay the costs of automating the county clerk and municipal ~~and justice~~ court recordkeeping system or converting the court's document system to micrographics, or both.

(c) Upon completion of the automation and conversion, and payment of the costs therefor, the additional fee shall no longer be imposed.

Comment. Section 26863 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 27082 (amended). Found money

SEC. _____. Section 27082 of the Government Code is amended to read:

27082. Upon receiving from the coroner, ~~or judge of the justice court acting as coroner,~~ money found on a dead body, the treasurer shall place it to the credit of the county. The money shall be credited to a separate trust fund or trust account. If the legal representatives of the decedent demand the money in the treasury belonging to the decedent within six years, the treasurer shall pay it to them, after deducting the fees and expenses of the coroner and of the county in relation to the matter, or the money may be paid at any time thereafter upon the order of the board of supervisors.

Comment. Section 27082 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 27647 (amended). Representation of judges by county counsel

SEC. _____. Section 27647 of the Government Code is amended to read:

27647. (a) If requested so to do by the superior court of the county of which ~~he is~~ *the* county counsel, or by any municipal court ~~or justice court~~ in such county, or by any judge thereof, and insofar as such duties are not in conflict with, and do not interfere with, his other duties, the county counsel may represent any such court or judge thereof in all matters and questions of law pertaining to any of such judge's duties, including any representation authorized by Section 68111 and representation in all civil actions and proceedings in any court in which with respect to the court's or judge's official capacity, such court or judge is concerned or is a party.

(b) This section shall not apply to any of the following:

(1) Any criminal proceedings in which a judge is a defendant.

(2) Any grand jury proceedings.

(3) Any proceeding before the Commission on Judicial Qualifications.

(4) Any civil action or proceeding arising out of facts under which the judge was convicted of a criminal offense in a criminal proceeding.

Comment. Section 27647 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 27706 (amended). Duties of public defender

SEC. _____. Section 27706 of the Government Code is amended to read:

27706. The public defender shall perform the following duties:

(a) Upon request of the defendant or upon order of the court, the public defender shall defend, without expense to the defendant, except as provided by Section 987.8 of the Penal Code, any person who is not financially able to employ counsel and who is charged with the commission of any contempt or offense triable in the superior, ~~municipal, or justice~~ *or municipal* courts at all stages of the proceedings, including the preliminary examination. The public defender shall, upon request, give counsel and advice to such

person about any charge against the person upon which the public defender is conducting the defense, and shall prosecute all appeals to a higher court or courts of any person who has been convicted, where, in the opinion of the public defender, the appeal will or might reasonably be expected to result in the reversal or modification of the judgment of conviction.

(b) Upon request, the public defender shall prosecute actions for the collection of wages and other demands of any person who is not financially able to employ counsel, where the sum involved does not exceed one hundred dollars (\$100), and where, in the judgment of the public defender, the claim urged is valid and enforceable in the courts.

(c) Upon request, the public defender shall defend any person who is not financially able to employ counsel in any civil litigation in which, in the judgment of the public defender, the person is being persecuted or unjustly harassed.

(d) Upon request, or upon order of the court, the public defender shall represent any person who is not financially able to employ counsel in proceedings under Division 4 (commencing with Section 1400) of the Probate Code and Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

(e) Upon order of the court, the public defender shall represent any person who is entitled to be represented by counsel but is not financially able to employ counsel in proceedings under Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code.

(f) Upon order of the court the public defender shall represent any person who is required to have counsel pursuant to Section 686.1 of the Penal Code.

(g) Upon the order of the court or upon the request of the person involved, the public defender may represent any person who is not financially able to employ counsel in a proceeding of any nature relating to the nature or conditions of detention, of other restrictions prior to adjudication, of treatment, or of punishment resulting from criminal or juvenile proceedings.

Comment. Section 27706 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 28003 (amended). Payment of salaries

SEC. _____. Section 28003 of the Government Code is amended to read:

28003. In any county the board of supervisors may by ordinance fix a date or schedule of dates for the payment of salaries of the officers, deputies, clerks, and employees of the several departments and institutions of the county government, including but not limited to the judges and other officers and the employees and attaches of the superior courts, ~~municipal courts and justice and municipal courts~~ in the county.

Comment. Section 28003 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 29603 (amended). County charges

SEC. _____. Section 29603 of the Government Code is amended to read:

29603. The sums required by law to be paid to the grand and trial jurors and witnesses in criminal cases tried in a superior court, ~~municipal court, or justice or municipal court~~ are county charges.

Comment. Section 29603 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 29605 (repealed). Charges and accounts for services

SEC. _____. Section 29605 of the Government Code is repealed.

~~29605. All charges and accounts for services rendered by any judge of a justice court in the examination or trial of persons charged with crime, not otherwise provided for and allowed by law, are county charges.~~

Comment. Section 29605 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 29610 (amended). Expenses

SEC. _____. Section 29610 of the Government Code is amended to read:

29610. The expenses of any elected county officer, *and* one marshal of a municipal court chosen by the marshals of the municipal courts, ~~and one judge of a justice court chosen by the judges of the justice courts~~ incurred while traveling to and from

and while attending the annual convention of his or her respective association, are county charges which do not require prior approval of the board of supervisors. The board of supervisors may require prior approval by the board of supervisors for any other officer or employee to incur those expenses as county charges.

Comment. Section 29610 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 31469 (amended). Definitions

SEC. _____. Section 31469 of the Government Code is amended to read:

31469. (a) "Employee" means any officer or other person employed by a county whose compensation is fixed by the board of supervisors or by statute and whose compensation is paid by the county, and any officer or other person employed by any district within the county.

(b) ~~"Employee" includes any judge of a justice court.~~

(e) "Employee" includes any officer or attache of any superior court or municipal court which has been brought within the operation of this chapter.

(d) (c) "Employee" includes any officer or other person employed by a district as defined in subdivision (c) of Section 31468 and whose compensation is paid from funds of the district.

(e) (d) "Employee" includes any member paid from the county school service fund who elected pursuant to Education Code Section 873.1 to remain a member of this system.

(f) (e) "Employee" includes any person permanently employed by a local agency formation commission including the executive officer thereof.

Comment. Section 31469 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 41606 (amended). Fee for service of process

SEC. _____. Section 41606 of the Government Code is amended to read:

41606. For service of any process the chief of police shall receive the same fees as constables. ~~His fees sheriffs. Fees of the~~

chief of police for services in criminal actions or proceedings upon process issued from the city court are not a county charge.

Comment. Section 41606 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b). For service of process by a sheriff, see Section 26721. See also Section 71266 (marshal's fees); former Section 27821 (constable's fees).

Gov't Code § 50920 (amended). "Peace officer" defined

SEC. _____. Section 50920 of the Government Code is amended to read:

50920. As used in this article, the term "peace officer" means a sheriff, undersheriff, deputy sheriff, ~~constable~~, marshal, or deputy marshal of a county, city and county, or judicial district, or a marshal or police officer of a city or town, employed and compensated as such, whether the members are volunteer, partly paid, or fully paid, except those whose principal duties are clerical, such as stenographers, telephone operators, and other workers not engaged in law enforcement operations, or the protection or preservation of life or property, and not under suspension or otherwise lacking in good standing.

Comment. Section 50920 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 53069.4 (amended). Violation of ordinance

SEC. _____. Section 53069.4 of the Government Code is amended to read:

53069.4. (a)(1) The legislative body of a local agency, as the term "local agency" is defined in Section 54951, may by ordinance make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The local agency shall set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties. Where the violation would otherwise be an infraction, the administrative fine or penalty shall not exceed the maximum fine or penalty amounts for infractions set forth in subdivision (b) of Section 25132 and subdivision (b) of Section 36900.

(2) The administrative procedures set forth by ordinance adopted by the local agency pursuant to paragraph (1), shall provide for a reasonable period of time, as specified in the ordinance, for a person responsible for a continuing violation to correct or otherwise remedy the violation prior to the imposition of administrative fines or penalties, when the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, that do not create an immediate danger to health or safety.

(b)(1) Notwithstanding the provisions of Section 1094.5 or 1094.6 of the Code of Civil Procedure within 20 days after service of the final administrative order or decision of the local agency is made pursuant to an ordinance enacted in accordance with this section regarding the imposition, enforcement or collection of the administrative fines or penalties, a person contesting that final administrative order or decision may seek review by filing an appeal to be heard by the municipal court *or by the superior court in a county in which there is no municipal court*, where the same shall be heard de novo, except that the contents of the local agency's file in the case shall be received in evidence. *A proceeding under this subdivision is a limited civil case.* A copy of the document or instrument of the local agency providing notice of the violation and imposition of the administrative fine or penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the local agency by the contestant.

(2) The fee for filing the notice of appeal shall be twenty-five dollars (\$25). The court shall request that the local agency's file on the case be forwarded to the court, to be received within 15 days of the request. The court shall retain the twenty-five dollar (\$25) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the local agency in accordance with the judgment of the court.

(3) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners

and other subordinate judicial officials at the direction of the presiding judge of the court.

(c) If no notice of appeal of the local agency's final administrative order or decision is filed within the period set forth in this section, the order or decision shall be deemed confirmed.

(d) If the fine or penalty has not been deposited and the decision of the court is against the contestant, the local agency may proceed to collect the penalty pursuant to the procedures set forth in its ordinance.

Comment. Section 53069.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Gov't Code § 53075.6 (amended). Taxicab certificates

SEC. _____. Section 53075.6 of the Government Code is amended to read:

53075.6. Whenever a peace officer or public officer or employee, when authorized by ordinance and as defined in Section 836.5 of the Penal Code, arrests any person for operating as a taxicab without a valid taxicab certificate, license, or permit required by any ordinance, and the offense occurred at a public airport, within 100 feet of a public airport, or within two miles of the international border between the United States and Mexico, the officer or employee may impound and retain possession of any vehicle used in a violation of the ordinance.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of the ordinance without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine

ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in municipal court *or superior court in a county in which there is no municipal court* for the immediate return of a vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. *A proceeding under this paragraph is a limited civil case.*

No officer or employee, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

Comment. Section 53075.6 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Gov't Code § 53075.61 (amended). Transportation inspector

SEC. _____. Section 53075.61 of the Government Code is amended to read:

53075.61. A transportation inspector, authorized by a local government to cite any person for operating as a taxicab without a valid taxicab certificate, license, or permit required by any ordinance, may impound and retain possession of any vehicle used in a violation of the ordinance.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of the ordinance

without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in municipal court *or superior court in a county in which there is no municipal court* for the immediate return of a vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. *A proceeding under this paragraph is a limited civil case.*

No officer or employee, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

Comment. Section 53075.61 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Gov't Code § 53679 (amended). Deposits

SEC. _____. Section 53679 of the Government Code is amended to read:

53679. So far as possible all money belonging to a local agency under the control of any of its officers or employees other than the treasurer or a judge or officer of a ~~justice or~~ municipal court shall, and all money coming into the possession of a judge or officer of a ~~justice or~~ municipal court may, be deposited as active deposits in the state or national bank, inactive deposits in the state or national bank or state or federal association, federal or state credit union, or federally insured industrial loan company in this state selected by the officer, employee, or judge of the court. For purposes of this section, an officer or employee of a local agency and a judge or

officer of a justice—~~or~~ municipal court are prohibited from depositing local agency funds or money coming into their possession into a state or federal credit union if an officer or employee of the local agency, or a judge or officer of a justice—~~or~~ municipal court, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the particular state or federal credit union. Such money is subject to this article except:

(a) Deposits in an amount less than that insured pursuant to federal law are not subject to this article.

For deposits in excess of the amount insured under any federal law a contract in accordance with Section 53649 is required and the provisions of this article shall apply.

(b) Interest is not required on money deposited in an active deposit by a judge or officer of a justice—~~or~~ municipal court.

(c) Interest is not required on money deposited in an active deposit by an officer having control of a revolving fund created pursuant to Chapter 2 (commencing with Section 29300) of Division 3 of Title 3.

(d) Interest is not required on money deposited in an active deposit by an officer having control of a special fund established pursuant to Articles 5 (commencing with Section 29400) or 6 (commencing with Section 29430) of Chapter 2 of Division 3 of Title 3.

Comment. Section 53679 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68071 (amended). Court rules

SEC. _____. Section 68071 of the Government Code is amended to read:

68071. No rule adopted by a superior, ~~municipal, or justice or~~ *municipal* court shall take effect until the January 1 or July 1, whichever comes first, following the 30th day after it has been filed with the Judicial Council and the clerk of the court, and made immediately available for public examination. The Judicial Council may establish, by rule, a procedure for exceptions to these effective dates.

Comment. Section 68071 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68072 (amended). Court rules

SEC. _____. Section 68072 of the Government Code is amended to read:

68072. Rules adopted by the Judicial Council, the Supreme Court, or a court of appeal shall take effect on a date to be fixed in the order of adoption. If no effective date is fixed, those rules shall take effect 60 days after their adoption. Rules adopted by a superior, ~~municipal, or justice or municipal~~ court shall take effect as provided in Section 68071.

Comment. Section 68072 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68074.1 (amended). Seals

SEC. _____. Section 68074.1 of the Government Code is amended to read:

68074.1. The seal of any superior, ~~municipal, or justice or municipal~~ court may be affixed by a seal press or stamp which will print or emboss a seal which will reproduce legibly under photographic methods.

Comment. Section 68074.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68078 (repealed). Seal

SEC. _____. Section 68078 of the Government Code is repealed.

~~68078. The justice court of every judicial district may use any seal having upon it the inscription: "Justice Court _____," with the name of the county and of the judicial district in which such court is established inserted.~~

Comment. Section 68078 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68081 (amended). Appellate decisions

SEC. _____. Section 68081 of the Government Code is amended to read:

68081. Before the Supreme Court, a court of appeal, or the appellate department *division* of a superior court renders a decision

in a proceeding other than a summary denial of a petition for an extraordinary writ, based upon an issue which was not proposed or briefed by any party to the proceeding, the court shall afford the parties an opportunity to present their views on the matter through supplemental briefing. If the court fails to afford that opportunity, a rehearing shall be ordered upon timely petition of any party.

Comment. Section 68081 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

Gov't Code § 68084 (amended). Deposits

SEC. _____. Section 68084 of the Government Code is amended to read:

68084. When any money is deposited with the clerk or judge of any court pursuant to any action or proceeding in the court, or pursuant to any order, decree, or judgment of the court, or when any money is to be paid to the treasurer pursuant to any provision of this title or the Code of Civil Procedure, that money shall be deposited as soon as practicable after the receipt thereof with the treasurer and a duplicate receipt of the treasurer for it shall be filed with the auditor. The certificate of the auditor that a duplicate receipt has been filed is necessary before the clerk, judge, or party required to deposit the money is entitled to a discharge of the obligation imposed upon ~~him~~ *the clerk, judge, or party* to make the deposit.

When any money so deposited is to be withdrawn or paid out, the order directing the payment or withdrawal shall require the auditor to draw ~~his~~ *a* warrant for it and the treasurer to pay it. In any city governed by a charter, such withdrawals shall be made pursuant to the charter.

Notwithstanding any other provision of law, any municipal court ~~or justice court~~, or marshal of that court, may elect, with prior approval of the county auditor, to deposit in a bank account or deposit in a savings and loan association pursuant to Section 53679 all moneys deposited with that court, or with the clerk thereof, or received by a marshal. All moneys received and disbursed through that account or on deposit shall be properly accounted for under those procedures the Controller may deem necessary, and shall be

subject to periodic settlement with the county auditor as required by law.

Comment. Section 68084 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68086 (amended). Fees

SEC. _____. Section 68086 of the Government Code is amended to read:

68086. (a) In all superior court departments not selected to participate in the demonstration project established under Section 270 of the Code of Civil Procedure:

(1) In addition to any other trial court fee required in civil cases, a fee equal to the actual cost of providing that service shall be charged per one-half day of services to the parties, on a pro rata basis, for the services of an official reporter on the first and each succeeding judicial day those services are required.

(2) All parties shall deposit their pro rata shares of these fees with the clerk of the court at the beginning of the second and each succeeding day's court session.

(3) For purposes of this section, "one-half day" means any period of judicial time during either the morning or afternoon court session.

(4) The costs for the services of the official reporter shall be recoverable as taxable costs at the conclusion of trial.

(5) The Judicial Council shall adopt rules to ensure all of the following:

(A) That parties are given adequate and timely notice of the availability of an official reporter.

(B) That if an official reporter is not available, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter, the costs therefore recoverable as provided in paragraph (4).

(C) That if the services of an official pro tempore reporter are utilized pursuant to this section, no other charge will be made to the parties.

(b) In all superior court departments selected to participate in the demonstration project established under Section 270 of the Code of Civil Procedure, and in all municipal and justice courts:

(1) In addition to any other trial court fee required in civil cases, a fee equal to the actual cost of providing that service shall be charged per one-half day of services to the parties, on a pro rata basis, for official reporting services on the first and each succeeding judicial day those services are required.

(2) All parties shall deposit their pro rata shares of these fees with the clerk of the court at the beginning of the second and each succeeding day's court session.

(3) For purposes of this section, "one-half day" means any period of judicial time during either the morning or afternoon court session.

(4) The costs for the official reporting services shall be recoverable as taxable costs at the conclusion of trial.

(5) The Judicial Council shall adopt rules to ensure all of the following:

(A) That litigants receive adequate information about any change in the availability of official reporting services.

(B) That if official reporting services are not available, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter, the costs therefore recoverable as provided in paragraph (4).

(C) That if the services of a pro tempore reporter are utilized because official reporting services are unavailable, no other charge will be made to the parties for recording the proceeding.

Comment. Section 68086 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68090.7 (amended). Fees

SEC. _____. Section 68090.7 of the Government Code is amended to read:

68090.7. The board of supervisors of any county, as specified in Sections 26863 and 72054, may provide for a fee for the following filings in each civil action or proceeding:

(a) The first paper and papers transmitted from another court, as specified in Sections 26820.4 and 72055.

(b) The first paper on behalf of an adverse party, as specified in Sections 26826 and 72056.

(c) A petition or other paper in a probate, guardianship, or conservatorship matter as specified by Section 26827.

The fee shall not apply to adoptions, appeals from ~~an inferior a~~ *municipal* court, or motions.

Except as otherwise specified by law, all fees collected under this section shall be transmitted to the county treasurer and an amount equal thereto shall be used exclusively to pay the costs of automating the court clerk and municipal ~~and justice~~ court recordkeeping system or converting the court's document system to micrographics, or both.

Comment. Section 68090.7 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68093 (amended). Witness fees

SEC. _____. Section 68093 of the Government Code is amended to read:

68093. Except as otherwise provided by law, witness' fees for each day's actual attendance, when legally required to attend a civil action or proceeding in the superior, ~~municipal, and justice~~ *and municipal* courts, are thirty-five dollars (\$35) a day and mileage actually traveled, both ways, twenty cents (\$0.20) a mile.

Comment. Section 68093 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68098 (amended). Witness fees

SEC. _____. Section 68098 of the Government Code is amended to read:

68098. Witness' fees in criminal cases in superior, ~~municipal, and justice~~ *and municipal* courts are charges against the same funds as jurors' fees in such cases.

Comment. Section 68098 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68108 (amended). Furlough days

SEC. _____. Section 68108 of the Government Code is amended to read:

68108. (a) With respect to the superior, ~~municipal, and justice and municipal~~ courts, to the extent that the county's Consolidated Memorandum of Understanding for county employees designates certain days as unpaid furlough days for employees assigned to regular positions in the superior, ~~municipal, and justice and municipal~~ courts, including all superior court, municipal court, and county employees assigned to the courts, the courts shall not be in session on those days except as ordered by the presiding judge upon a finding by the presiding judge of a judicial emergency as defined in Chapter 1.1 (commencing with Section 68115). On these furlough days, although the clerk's office shall not be open to the public, each court shall permit documents to be filed at a drop box pursuant to subdivision (b), and an appropriate judicial officer shall be available to conduct arraignments and examinations as required pursuant to Section 825 of the Penal Code, and to sign any necessary documents on an emergency basis.

(b) A drop box shall provide for an automated, official time and date stamping mechanism or other means of determining the actual date on which a document was deposited in the drop box.

Comment. Section 68108 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68112 (amended). Coordination plans

SEC. _____. Section 68112 of the Government Code is amended to read:

68112. (a) On or before March 1, 1992, each superior, ~~municipal, and justice and municipal~~ court in each county, in consultation with the local bar, shall prepare and submit to the Judicial Council for review and approval a trial court coordination plan designed to achieve maximum utilization of judicial and other court resources and statewide cost reductions in court operations of at least 3 percent in the 1992-93 fiscal year, a further 2 percent in the 1993-94 fiscal year, and a further 2 percent in the 1994-95 fiscal year, as applicable. The cost reduction shall be based on the prior year

actual expenditures, plus any amount reduced from the budget for court operations by a county as a result of any reduction in state funding made pursuant to Section 13308, increased by the percentage change in population for the prior calendar year and the Department of Commerce implicit price deflator for state and local government for the prior calendar year. The coordination plan for each court shall be reviewed and approved by the Judicial Council on or before July 1, 1992. Thereafter, commencing in 1995 and every two years thereafter, courts in each county shall prepare, in consultation with the local bar, and submit a trial court coordination plan to the Judicial Council on or before March 1, for review and approval by July 1. The plans shall comply with rules promulgated by the Judicial Council and shall be designed to achieve maximum utilization of judicial and other resources to accomplish increased efficiency in court operations and increased service to the public. Any plan disapproved by the Judicial Council shall be revised and resubmitted within 60 days of notification of disapproval. The Judicial Council may by rule exempt courts from the requirement of filing a new coordination plan for any year if all courts in the county have (1) totally consolidated administrative functions under a single administrative entity, and (2) adopted and implemented a coordination plan in which all courts share each other's work so that cases in all of the county's courts are substantially assigned without regard to whether a judge is on the superior court or the municipal court, and which provides for procedures that implement that sharing of work.

(b) The coordination plan shall take into consideration the elements specified in standards and rules adopted by the Judicial Council and applicable case processing time standards adopted by the Judicial Council. The standards adopted by the Judicial Council shall include, but not be limited to, the following:

(1) The use of blanket cross-assignments allowing judges to hear civil, criminal, or other types of cases within the jurisdiction of another court.

(2) The coordinated or joint use of subordinate judicial officers to hear or try matters.

(3) The coordinated, joint use, sharing or merger of court support staff among trial courts within a county or across counties. In a county with a population of less than 100,000 the coordination plan need not involve merger of superior and justice court staffs if the court can reasonably demonstrate that the maintenance of separate administrative staffs would be more cost-effective and provide better service.

(4) The assignment of civil, criminal, or other types of cases for hearing or trial, regardless of jurisdictional boundaries, to any available judicial officer.

(5) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(6) The establishment of separate calendars or divisions to hear a particular type of case.

(7) In rural counties, the use of all court facilities for hearings and trials of all types of cases and to accept for filing documents in any case before any court in the county participating in the coordination plan.

(8) The coordinated or joint use of alternative dispute resolution programs such as arbitration.

(9) The unification of the trial courts within a county to the maximum extent permitted by the Constitution.

(10) The joint development of automated accounting and case-processing systems, including joint use of moneys available under Section 68090.8.

(c) In preparing coordination plans a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units where a courtwide plan would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

(d) In preparing coordination plans, the courts are strongly encouraged to develop a plan that includes all superior, ~~municipal,~~ and justice *and municipal* courts in the county.

Comment. Section 68112 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68114 (amended). Presiding judge

SEC. _____. Section 68114 of the Government Code is amended to read:

68114. Notwithstanding any other provision of law, the superior, ~~municipal, and justice~~ *and municipal* court judges participating in a coordination plan approved pursuant to Section 68112 may select, if the coordination plan so provides, any one of their number to serve as the single presiding judge of all the participating courts by a majority vote of the judges from all courts sitting as a committee of the whole or in some other manner as set forth in the coordination plan.

The single presiding judge shall have all the powers and duties of the former presiding judges of each of the participating superior, ~~municipal, and justice~~ *and municipal* courts. The single presiding judge may be empowered by the coordination plan to sit as the chair of any executive committee formed by the participating courts as part of their coordination plan.

Comment. Section 68114 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68114.5 (amended). Executive committee

SEC. _____. Section 68114.5 of the Government Code is amended to read:

68114.5. Notwithstanding any other provision of law, the superior, ~~municipal, and justice~~ *and municipal* court judges participating in a coordination plan approved pursuant to Section 68112 may establish a single executive committee of judicial officers to oversee, if the coordination plan so provides, the activities of the participating courts. The committee shall include representatives of all participating courts in a manner specified in the coordination plan. The committee shall have such powers and duties as are delegated to it by each participating court in the coordination plan, which may include oversight of the administration of the courts and judicial activities.

Comment. Section 68114.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68114.6 (amended). Chief administrative officer

SEC. _____. Section 68114.6 of the Government Code is amended to read:

68114.6. Notwithstanding any other provision of law, the superior, ~~municipal, and justice~~ *and municipal* court judges participating in a coordination plan approved pursuant to Section 68112 may appoint, if the coordination plan so provides, an executive officer to serve as the chief administrative officer of the participating courts. The executive officer shall hold office at the pleasure of a majority vote of the judges from all of the participating courts sitting as a committee of the whole or as set forth in the coordination plan. The courts shall fix the qualifications of the executive officer. The salary of the executive officer shall be fixed by the participating courts and shall be paid by the county in which the executive officer serves. Each such position shall be exempt from civil service laws.

The participating courts may delegate to the executive officer any administrative powers and duties required to be exercised by the participating courts. The executive officer shall exercise such administrative powers and perform such other duties as may be required of him or her by the participating courts. Any executive officer appointed under this section has the authority of a clerk of any participating superior, ~~municipal, or justice~~ *or municipal* court. The executive officer shall perform, or supervise the performance of, the duties of a jury commissioner in the county of any participating superior court. The executive officer shall supervise the secretaries of the judges of the participating courts.

Notwithstanding any other provision of law, any participating superior court may, by local rule, specify which of the powers, duties, and responsibilities required or permitted to be exercised or performed by the county clerk in connection with judicial actions, proceedings, and records shall be exercised or performed by the executive officer appointed under this section. The county clerk shall be relieved of any obligation imposed on him or her by law with respect to these specified powers, duties, and responsibilities, to the extent the local rule imposes on the executive officer the same powers, duties, and responsibilities.

Any participating superior court having specific statutory authorization to appoint an executive or administrative officer may elect to proceed under its specific authorization or under this section, but not under both.

Comment. Section 68114.6 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68115 (amended). Emergencies

SEC. _____. Section 68115 of the Government Code is amended to read:

68115. When war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction of or danger to the building appointed for holding the court, renders it necessary, or when a large influx of criminal cases resulting from a large number of arrests within a short period of time threatens the orderly operation of a court within a specified county or judicial district, the presiding judge, or if there is none, the sole judge of the superior, ~~municipal, or justice or municipal~~ court, may request and the Chair of the Judicial Council may, notwithstanding any other provision of law, by order authorize the court to do one or more of the following:

- (a) Hold sessions anywhere within the county.
- (b) Transfer civil cases pending in the court to another court in the county which has jurisdiction of the subject matter.
- (c) Transfer civil cases pending trial in the court to a court having jurisdiction of the subject matter in an adjacent county. No such transfer shall be made pursuant to this subdivision except with the consent of all parties to the case or upon a showing by a party that extreme or undue hardship would result unless the case is transferred for trial. Any civil case so transferred shall be integrated into the existing caseload of the court to which it is transferred pursuant to rules to be provided by the Judicial Council.
- (d) Suspend subdivisions (d), (e), and (f) of Section 199 of the Code of Civil Procedure relating to competency to act as a juror when suspension is necessary to obtain a sufficient number of jurors.

(e) After exhausting its own jury panel, draw jurors who reside within the judicial district from the jury panel of the superior court in the county, and thereafter, after exhausting that source, draw jurors from the remainder of the jury panel of the superior court in the county or from jury panels of any other municipal or justice court in the county.

(f) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 825 of the Penal Code within which a defendant charged with a felony offense shall be taken before a magistrate from two days to not more than seven days, with the number of days to be designated by the Chair of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order.

(g) Extend the time period provided in Section 859b of the Penal Code for the holding of a preliminary examination from 10 days to not more than 15 days.

(h) Extend the time period provided in Section 1382 of the Penal Code within which the trial must be held by not more than 30 days, but the trial of a defendant in custody whose time is so extended shall be given precedence over all other cases.

(i) Within the affected area of a county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Sections 632 and 637 of the Welfare and Institutions Code within which a minor shall be given a detention hearing, with the number of days to be designated by the Chair of the Judicial Council. The extension of time shall be for the shortest period of time necessary under the circumstances of the emergency, but in no event shall the time period within which a detention hearing must be given be extended to more than seven days. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. This subdivision shall apply only where the minor has been charged with a felony.

(j) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 657 of the Welfare and Institutions Code within which an adjudication on a juvenile court petition shall be held by not more than 15 days, with the number of days to be designated by the Chair of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. This subdivision shall apply only where the minor has been charged with a felony.

Comment. Section 68115 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68152 (amended). Destruction of court records

SEC. _____. Section 68152 of the Government Code is amended to read:

68152. The trial court clerk may destroy court records under Section 68153 after notice of destruction and if there is no request and order for transfer of the records, except the comprehensive historical and sample superior court records preserved for research under the California Rules of Court, when the following times have expired after final disposition of the case in the categories listed:

- (a) Adoption: retain permanently.
- (b) Change of name: retain permanently.
- (c) Other civil actions and proceedings, as follows:
 - (1) Except as otherwise specified: 10 years.
 - (2) Where a party appears by a guardian ad litem: 10 years after termination of the court's jurisdiction.
 - (3) Domestic violence: same period as duration of the restraining or other orders and any renewals, then retain the restraining or other orders as a judgment; 60 days after expiration of the temporary protective or temporary restraining order.
 - (4) Eminent domain: retain permanently.
 - (5) Family law, except as otherwise specified: 30 years.

(6) Harassment: same period as duration of the injunction and any renewals, then retain the injunction as a judgment; 60 days after expiration of the temporary restraining order.

(7) Mental health (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act): 30 years.

(8) Paternity: retain permanently.

(9) Petition, except as otherwise specified: 10 years.

(10) Real property other than unlawful detainer: retain permanently if the action affects title or an interest in real property.

(11) Small claims: 10 years.

(12) Unlawful detainer: one year if judgment is for possession of the premises; 10 years if judgment is for money.

(d) Notwithstanding subdivision (c), any civil or small claims case in the trial court:

(1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local rules: one year.

(2) Voluntarily dismissed by a party without entry of judgment: one year.

Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal index.

(e) Criminal.

(1) Capital felony (murder with special circumstances where the prosecution seeks the death penalty): retain permanently. If the charge is disposed of by acquittal or a sentence less than death, the case shall be reclassified.

(2) Felony, except as otherwise specified: 75 years.

(3) Felony, except capital felony, with court records from the initial complaint through the preliminary hearing or plea and for which the case file does not include final sentencing or other final disposition of the case because the case was bound over to the superior court: five years.

(4) Misdemeanor, except as otherwise specified: five years.

(5) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise specified: three years.

(6) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle Code: seven years.

(7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, or 23109 of the Vehicle Code: five years.

(8) Misdemeanor alleging a marijuana violation under subdivision (b), (c), (d), or (e) of Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the Health and Safety Code in accordance with the procedure set forth in Section 11361.5 of the Health and Safety Code: records shall be destroyed two years from the date of conviction or from the date of arrest if no conviction.

(9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and licensing of dogs under Sections 30951 to 30956, inclusive, of the Food and Agricultural Code or violation of any other local ordinance: three years.

(10) Infraction, except as otherwise specified: three years.

(11) Parking infractions, including alleged violations under the stopping, standing, and parking provisions set forth in Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle Code: two years.

(f) Habeas corpus: same period as period for retention of the records in the underlying case category.

(g) Juvenile.

(1) Dependent (Section 300 of the Welfare and Institutions Code): upon reaching age 28 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed pursuant to subdivision (c) of Section 389 of the Welfare and Institutions Code.

(2) Ward (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(3) Ward (Section 602 of the Welfare and Institutions Code): upon reaching age 38 under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order when the subject of the record reaches the age of 38 under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(4) Traffic and some nontraffic misdemeanors and infractions (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or five years after jurisdiction over the person has terminated under subdivision (c) of Section 826 of the Welfare and Institutions Code. May be microfilmed or photocopied.

(5) Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and Safety Code in accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health and Safety Code: upon reaching age 18 the records shall be destroyed.

(h) Probate.

(1) Conservatorship: 10 years after decree of termination.

(2) Guardianship: 10 years after the age of 18.

(3) Probate, including probated wills, except as otherwise specified: retain permanently.

(i) Court records of the appellate ~~department~~ *division* of the ~~trial~~ *superior* court: five years.

(j) Other records.

(1) Applications in forma pauperis: same period as period for retention of the records in the underlying case category.

(2) Arrest warrant: same period as period for retention of the records in the underlying case category.

(3) Bench warrant: same period as period for retention of the records in the underlying case category.

(4) Bond: three years after exoneration and release.

(5) Coroner's inquest report: same period as period for retention of the records in the underlying case category; if no case, then permanent.

(6) Court orders not associated with an underlying case, such as orders for destruction of court records for telephone taps, or to destroy drugs, and other miscellaneous court orders: three years.

(7) Court reporter notes: 10 years after the notes have been taken in criminal and juvenile proceedings and five years after the notes have been taken in all other proceedings, except notes reporting proceedings in capital felony cases (murder with special circumstances where the prosecution seeks the death penalty and the sentence is death), including notes reporting the preliminary hearing, which shall be retained permanently, unless the Supreme Court on request of the court clerk authorizes the destruction.

(8) Electronic recordings made as the official record of the oral proceedings under the California Rules of Court: any time after final disposition of the case in infraction and misdemeanor proceedings, 10 years in all other criminal proceedings, and five years in all other proceedings.

(9) Electronic recordings not made as the official record of the oral proceedings under the California Rules of Court: any time either before or after final disposition of the case.

(10) Index, except as otherwise specified: retain permanently.

(11) Index for cases alleging traffic violations: same period as period for retention of the records in the underlying case category.

(12) Judgments within the jurisdiction of the superior court *other than in a limited civil case*: retain permanently.

(13) Judgments within the jurisdiction of the municipal and justice court *or of the superior court in a limited civil case*: same period as period for retention of the records in the underlying case category.

(14) Minutes: same period as period for retention of the records in the underlying case category.

(15) Naturalization index: retain permanently.

(16) Ninety-day evaluation (under Section 1203.03 of the Penal Code): same period as period for retention of the records in the underlying case category, or period for completion or termination of probation, whichever is longer.

(17) Register of actions or docket: same period as period for retention of the records in the underlying case category, but in no event less than 10 years for civil and small claims cases.

(18) Search warrant: 10 years, except search warrants issued in connection with a capital felony case defined in paragraph (7), which shall be retained permanently.

(k) Retention of any of the court records under this section shall be extended as follows:

(1) By order of the court on its own motion, or on application of a party or any interested member of the public for good cause shown and on such terms as are just. No fee shall be charged for making the application.

(2) Upon application and order for renewal of the judgment to the extended time for enforcing the judgment.

Comment. Section 68152 is amended:

(1) To accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

(2) To reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

(3) To reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Notwithstanding the deletion of the reference to justice courts, justice court judgments will continue to be retained for the appropriate period of time depending upon the underlying action.

Gov't Code § 68202.5 (repealed). Salary

SEC. _____. Section 68202.5 of the Government Code is repealed.

~~68202.5. (a) The judge of a full-time justice court shall receive the same salary as a judge of the municipal court.~~

~~(b) Except as provided in subdivision (c) and Section 71702, a judge of a part-time justice court shall receive salary equal to percentage of that amount which equals the proportion of a full-time work week required to serve the court to which the judge is appointed or elected, as determined by the Judicial Council and as provided for in the Budget Act.~~

~~(c) Each judge of a part-time justice court shall receive the same annual salary as a judge of the municipal court if both of the following conditions are met:~~

~~(1) The judge has agreed to serve full time, and to make himself or herself available to take assignments from the Chief Justice whenever the workload determined pursuant to subdivision (d)~~

does not require the judge's services in the court to which he or she is elected or appointed.

~~(2) The Chief Justice has certified that the judge is acceptable for regular judicial assignment to other courts. A certification under this subdivision may be revoked at any time for cause.~~

~~(d) A judge certified under subdivision (c) for full-time service shall be assigned to courts needing assistance when not required to serve the court to which he or she is elected or appointed, as determined by rules adopted by the Judicial Council, subject to the approval of the Chief Justice. The certification of a judge who does not serve in accordance with these rules shall be terminated. After a certification is terminated, the salary of such a judge shall be that prescribed by subdivision (b).~~

~~(e) Any justice court judge appointed or elected after January 1, 1990, shall be deemed to have agreed to make himself or herself available under paragraph (1) of subdivision (c).~~

~~(f) The salaries of justice court judges shall be paid by the counties. If the county is not a trial court funding option county, the excess of the salaries payable under subdivision (c) over the salaries payable under subdivision (b) shall be reimbursed to the county from funds made available to the Judicial Council for the assignment of judges.~~

Comment. Section 68202.5 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68206.2 (amended). State reimbursement

SEC. _____. Section 68206.2 of the Government Code is amended to read:

68206.2. (a) On and after January 1, 1990, the state shall reimburse each small county which is not an option county under the Brown-Presley Trial Court Funding Act (Chapter 12 (commencing with Section 77000) of this title), for the cost of salary and per diem for any substitute judge assigned to replace a judge disqualified from acting as a judge while there is pending a recommendation to the Supreme Court by the Commission on Judicial Performance for removal or retirement of the judge pursuant to subdivision (a) of Section 18 of Article VI of the

California Constitution, beginning with the salary and per diem for the seventh month following the disqualification.

(b) For purposes of this section, a “small county” is one which has a total of nine or fewer superior, ~~municipal, and justice~~ *and municipal* court judges.

Comment. Section 68206.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov’t Code § 68505 (amended). Clerks

SEC. _____. Section 68505 of the Government Code is amended to read:

68505. The county ~~clerks, clerks and~~ clerks of all courts of record, ~~and clerks of such justice courts as have clerks~~ shall cooperate with the Judicial Council. They shall keep such records and make such reports to the council, in such manner and at such times, as the ~~chairman~~ *Chair* of the ~~council~~ *Judicial Council* requires, respecting the condition and manner of disposal of judicial business in their respective courts.

Comment. Section 68505 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov’t Code § 68513 (amended). Uniform court data in civil cases in superior court

SEC. _____. Section 68513 of the Government Code is amended to read:

68513. The Judicial Council shall provide for the uniform entry, storage, and retrieval of court data relating to civil cases in superior court *other than limited civil cases* by means provided for in this section, in addition to any other data relating to court administration, including all of the following:

(a) The category type of civil case, such as contract or personal injury-death-property damage by motor vehicle.

(b) The time from filing of the action to settlement.

(c) The type of settlement procedure, if any, which contributed to the settlement disposition.

(d) The character and amount of any settlement made as to each party litigant, but preserving the confidentiality of such information if the settlement is not otherwise public.

(e) The character and amount of any judgments rendered by court and jury trials for comparison with settled cases.

(f) The extent to which damages prayed for compare to settlement or judgment in character and amount.

(g) The extent to which collateral sources have contributed, or will contribute, financially to satisfaction of the judgment or settlement.

Provision for the uniform entry, storage, and retrieval of court data may be by use of litigant statements or forms, if available, or by collection and analysis of statistically reliable samples.

The Judicial Council shall report to the Legislature on or before January 1, 1998, and annually thereafter on the uniform entry, storage, and retrieval of court data as provided for in this section. The Legislature shall evaluate and adjust the level of funds available to pay the costs of automating trial court recordkeeping systems, pursuant to Section 68090.8, for noncompliance with the requirements of this section.

Comment. Section 68513 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 68540 (amended). Compensation

SEC. _____. Section 68540 of the Government Code is amended to read:

68540. The state shall pay the additional compensation of a judge of a municipal ~~or justice court~~, *court* assigned to a superior court.

Comment. Section 68540 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68541 (repealed). Compensation

SEC. _____. Section 68541 of the Government Code is repealed.

68541. (a) ~~The compensation of a judge of a justice court who receives a part-time salary and who is assigned by the Chairperson of the Judicial Council to serve in a court in a county other than that in which he or she was elected or appointed shall be paid by the state.~~

~~(b) If a justice court judge is assigned to another justice court, except for exchange assignments as defined by rules adopted by the Judicial Council, the salary of the office to which he or she is assigned shall, for purposes of Section 68540.7, be deemed to be equivalent to the salary paid a justice court judge certified pursuant to Section 68202.5 of the Government Code.~~

Comment. Section 68541 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68542 (amended). Travel expenses outside county

SEC. _____. Section 68542 of the Government Code is amended to read:

68542. The expenses for travel, board, and lodging of each judge assigned to a superior, ~~municipal, or justice~~ *or municipal* court in a county other than that in which he or she regularly sits shall be paid by the state under the rules adopted by the Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business.

Comment. Section 68542 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68542.5 (amended). Travel expenses inside county

SEC. _____. Section 68542.5 of the Government Code is amended to read:

68542.5. Any judge of a superior, ~~municipal, or justice~~ *or municipal* court sitting in another court in the same county under assignment by the Chairperson of the Judicial Council shall receive from such county the amount of actual and necessary traveling expenses incurred while traveling between home and the courtroom unless the courtrooms are within five miles of each other.

Comment. Section 68542.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68546 (amended). Cross-assignments

SEC. _____. Section 68546 of the Government Code is amended to read:

68546. If the ~~Chairman~~ *Chair* of the Judicial Council assigns a judge of a municipal ~~or justice~~ court in a county to sit on the superior court of the same county, the presiding judge of the municipal ~~or justice~~ court may with the consent of the presiding judge of the superior court also assign the court reporter, deputy clerk and deputy marshal, or any of them, of the municipal ~~or justice~~ court from which that judge is assigned to act as court reporter, deputy clerk and deputy sheriff, respectively, for the superior court during the period for which the judge is assigned. During the period for which the court reporter, deputy clerk, or deputy marshal is assigned, they shall receive the same salary as a court reporter, deputy clerk, or deputy sheriff, respectively, for the superior court. If there be no presiding judge, the senior or sole judge may make or consent to the assignment of the attaches. This section shall not apply to the assignment of the deputy clerk or deputy marshal in any county until the board of supervisors by ordinance has adopted its provisions. An ordinance is not required where the deputy clerk and deputy marshal consent to serve as part of their regular duties without additional compensation.

Comment. Section 68546 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68551 (amended). Orientation for new judges

SEC. _____. Section 68551 of the Government Code is amended to read:

68551. The Judicial Council is authorized to conduct institutes and seminars from time to time, either regionally or on a statewide basis, for the purpose of orienting judges to new judicial assignments, keeping them informed concerning new developments in the law and promoting uniformity in judicial procedure. Such institutes and seminars shall include, without being limited thereto, consideration of juvenile court proceedings, sentencing practices in criminal cases and the handling of traffic cases. Actual and necessary expenses incurred by superior, ~~municipal, and justice~~ *and municipal* court judges at any such institute or seminar shall be a charge against the county to the extent that funds are available therefor.

Comment. Section 68551 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68620 (amended). Delay reduction

SEC. _____. Section 68620 of the Government Code is amended to read:

68620. (a) Operative July 1, 1992, each municipal ~~and justice~~ court shall establish a delay reduction program in consultation with the local bar that is consistent with the provisions of this article. In its discretion, the Judicial Council may assist in the development of, or may develop and adopt, any or all procedures, standards, or policies for a delay reduction program in municipal and justice courts on a statewide basis which are consistent with the provisions of the Trial Court Delay Reduction Act.

(b) Actions and proceedings subject to the provisions of Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of the Code of Civil Procedure or provisions of Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure shall not be assigned to or governed by the provisions of any delay reduction program established pursuant to the section.

(c) It is the intent of the Legislature that the civil discovery in actions and proceedings subject to a program established pursuant to Article 2 (commencing with Section 90) of Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure shall be governed by the times and procedures specified in that article. Civil discovery in these actions and proceedings shall not be affected by the provisions of any delay reduction program adopted pursuant to this section.

Comment. Section 68620 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68902 (amended). Publication of opinions

SEC. _____. Section 68902 of the Government Code is amended to read:

68902. Such opinions of the Supreme Court, of the courts of appeal, and of the appellate ~~departments~~ *divisions* of the superior courts as the Supreme Court may deem expedient shall be

published in the official reports. The reports shall be published under the general supervision of the Supreme Court.

Comment. Section 68902 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

Gov't Code § 69510 (amended). Superior court sessions in non-unified counties

SEC. _____. Section 69510 of the Government Code is amended to read:

69510. A majority of the judges of a superior court may order sessions of the court to be held at any place where a municipal court holds sessions within the county *or, in a county in which there is no municipal court, where there is a court facility*. The order shall be filed with the county clerk and published as the judges may prescribe.

Comment. Section 69510 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 69741.7 (repealed). Superior court sessions at justice courts

SEC. _____. Section 69741.7 of the Government Code is repealed.

~~69741.7. At any time when one or more judges are assisting a one judge superior court pursuant to judicial assignment under Section 6 of Article VI of the Constitution, and when there is a justice court in the county which is not in use for other court purposes, such superior court may conduct session at such justice court.~~

Comment. Section 69741.7 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). *Cf.* 69510 (superior court sessions in non-unified counties).

Gov't Code § 69744.5 (amended). Superior court sessions

SEC. _____. Section 69744.5 of the Government Code is amended to read:

69744.5. When the judge, or a majority of the judges, of the superior court deem it necessary or advisable, by order filed with the county clerk and published as ~~he or they~~ *the judge or judges* prescribe, ~~he or they~~ *the judge or judges* may direct that the court

be held at least once a week at any designated place in the county, not less than 45 miles distant from the county seat, measured by air line. The place designated shall be within a judicial district, *or former district in a county in which there is no municipal court*, composed wholly of unincorporated territory, with a population of more than 40,000 as determined pursuant to Section 71043. The judge or a majority of the judges may limit the type of judicial proceedings which may be heard by the court at such place to probate matters and matters relating to domestic relations.

Comment. Section 69744.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 (“judicial district” defined, subject to contrary statute).

Gov’t Code § 69746.5 (amended). Superior court sessions

SEC. _____. Section 69746.5 of the Government Code is amended to read:

69746.5. In a county of the 14th class, at least one session of the superior court may be held at a location designated by the board of supervisors which is not less than 40 miles, nor more than 50 miles, from the site of the county courthouse. However, at such time on or after July 1, 1990, as the board of supervisors finds that there are sufficient funds for this purpose, the board of supervisors shall designate a location therefor which is within a judicial district, *or former district in a county in which there is no municipal court*, with a population of more than 40,000 as determined pursuant to Section 71043.

Comment. Section 69746.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 (“judicial district” defined, subject to contrary statute).

Gov’t Code § 69753 (amended). Superior court sessions under coordination plans

SEC. _____. Section 69753 of the Government Code is amended to read:

69753. (a) Notwithstanding any other provision of this code, the presiding or sole judge of a superior court may, if the session is held in furtherance of a coordination plan approved under Section 68112 or in the absence of a timely objection in a civil case or

proceeding or with the express consent of the parties in a criminal action, direct that a session of the court be held at any place in the county where a municipal ~~or justice~~ court regularly conducts sessions, if:

(1) The judge presiding at the superior court session is a judge of a municipal ~~or justice~~ court or a retired judge assigned to serve as a superior court judge under Section 6 of Article VI of the California Constitution.

(2) The presiding or sole judge of the municipal ~~or justice~~ court has informed the presiding judge of the superior court that the superior court session will not interfere with the normal conduct of municipal ~~or justice~~ court business.

(b) The Judicial Council shall provide by rule for the timely filing of any objection to hearing a civil matter at a municipal ~~or justice~~ court location, and for obtaining the consent of the parties in a criminal action.

Comment. Section 69753 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 69957 (amended). Official reporter acting pro tem

SEC. _____. Section 69957 of the Government Code is amended to read:

69957. Whenever the services of an official reporter of the superior court are not required in the actual prosecution of the business of the court within the purview of the duties of such reporter as an official reporter of the superior court, the presiding judge of the superior court may, if so requested by the presiding judge of any municipal court ~~or a justice court~~ judge within the county, assign any such official reporter of the superior court to act pro tempore as an official reporter of the municipal ~~or justice~~ court within the same county. Any such assignment shall be subject to the provisions of Article 5 (commencing at Section 72190) of Chapter 8 of Title 8 of this code.

Comment. Section 69957 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 70141 (amended). Court commissioners

SEC. _____. Section 70141 of the Government Code is amended to read:

70141. (a) To assist the court in disposing of its business connected with the administration of justice, the superior court of any city and county may appoint not exceeding 10 commissioners, and the superior court of every county, except a county with a population of 4,000,000 or over, may appoint one commissioner. Each person so appointed shall be designated as "court commissioner" of the county.

(b) In addition to the court commissioners authorized by subdivision (a) or any other provision of law, either the superior court or the municipal court, but not both, of any county or city and county may appoint one additional commissioner, at the same rate of compensation as the other commissioner or commissioners for that court, upon adoption of a resolution by the board of supervisors pursuant to subdivision (c).

(c) The county or city and county shall be bound by, and the resolution adopted by the board of supervisors shall specifically recognize, the following conditions:

(1) The county or city and county has sufficient funds for the support of the position and any staff who will provide direct support to the position, agrees to assume any and all additional costs that may result therefrom, and agrees that no state funds shall be made available, or shall be used, in support of this position or any staff who provide direct support to this position.

(2) The additional commissioner shall not be deemed a judicial position for purposes of calculating trial court funding pursuant to Section 77202.

(3) The salary for this position and for any staff who provide direct support to this position shall not be considered as part of court operations for purposes of Sections 77003 and 77204.

(4) The county or city and county agrees not to seek funding from the state for payment of the salary, benefits, or other compensation for such a commissioner or for any staff who provide direct support to such a commissioner.

(d) The court may provide that the additional commissioner may perform all duties authorized for a commissioner of that court in the county. In a county or city and county that has undertaken a consolidation of the trial courts, the additional commissioner shall be appointed by the superior, ~~municipal, or justice~~ *or municipal* courts pursuant to the consolidation agreement.

(e) In addition to the court commissioners authorized by subdivisions (a) and (b), the superior court of any county or city and county shall appoint additional commissioners pursuant to Sections 4251 and 4252 of the Family Code. These commissioners shall receive a salary equal to 85 percent of a superior court judge's salary. These commissioners shall not be deemed a court operation for purposes of Section 77003.

Comment. Section 70141 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code §§ 70200-70219 (added). Unification of municipal and superior courts

SEC. _____. Chapter 5.1 (commencing with Section 70200) is added to Title 8 of the Government Code, to read:

**CHAPTER 5.1. UNIFICATION OF MUNICIPAL
AND SUPERIOR COURTS**

Article 1. Unification Voting Procedure

§ 70200. Unification voting procedure provided in this article

70200. (a) The municipal and superior courts in a county shall be unified on a majority vote of superior court judges and a majority vote of municipal court judges in the county, pursuant to the procedure provided in this article.

(b) The vote shall be conducted by the Judicial Council or, if authorized by the Judicial Council, the county's registrar of voters.

(c) The Judicial Council may adopt rules not inconsistent with this article for the conduct of the vote, including but not limited to rules governing the frequency of vote calls, manner of voting, duration of the voting period, and selection of the operative date of unification.

Comment. Section 70200 reiterates authority provided in Constitution Article VI, Section 5(e), for unification of the municipal and superior courts in a county. The implementation of the unification procedure is vested in the Legislature by Constitution Article VI, Section 23 (purpose of constitutional amendment is to permit Legislature to provide for unification).

For the operative date of a vote for unification, see Section 70202.

§ 70200.5. Conduct of vote

70200.5. (a) A vote of the judges in a county for unification shall be called by the Judicial Council on application of the presiding judge of the superior court or all of the presiding judges of the municipal courts in the county, or on application of a majority of the superior court judges or a majority of the municipal court judges in the county.

(b) The vote shall be taken 30 days after it is called.

(c) A judge is eligible to vote if the judge is serving in the court pursuant to an election or appointment under Section 16 of Article VI of the California Constitution at the time the vote is taken.

(d) The ballot shall be in substantially the following form:

“Shall the municipal and superior courts in the County of [name county] be unified on [specify date]? [Yes] [No]”

(e) Notwithstanding subdivisions (a) and (b), the judges in a county may vote for unification by delivering to the Judicial Council a ballot endorsed in favor of unification by unanimous written consent of all judges in the county eligible to vote.

Comment. Section 70200.5 does not specify a manner of voting (e.g., secret ballot). This matter is left to Judicial Council rules. See Section 70200(c).

§ 70201. Certification of results

70201. (a) The Judicial Council or registrar of voters shall certify the results of a vote to unify the municipal courts and the superior courts in a county.

(b) Unification of the municipal and superior courts in a county requires an affirmative vote of a majority of all superior court judges in the county eligible to vote and a majority of all municipal court judges in the county eligible to vote.

(c) On certification, a vote in favor of unification of the municipal and superior courts in a county is final and may not be rescinded or revoked by a subsequent vote.

Comment. In the case of a vote against unification of the municipal and superior courts in a county, Section 70201 does not preclude a later vote in favor of unification, subject to Judicial Council rules governing the frequency of vote calls. See Section 70200(c).

§ 70202. Operative date of unification

70202. Unification of the municipal and superior courts in a county shall occur on the earlier of the date specified in the unification vote or 180 days following certification of the vote for unification.

Article 2. Transitional Provisions for Unification

§ 70210. Transitional rules of court

70210. The Judicial Council shall adopt rules of court not inconsistent with statute for:

(a) The orderly conversion of proceedings pending in municipal courts to proceedings in superior courts, and for proceedings commenced in superior courts on and after the date the municipal and superior courts in a county are unified.

(b) Selection of persons to coordinate implementation activities for the unification of municipal courts with superior courts in a county, including:

(1) Selection of a presiding judge for the unified superior court.

(2) Selection of a court executive officer for the unified superior court.

(3) Appointment of court committees or working groups to assist the presiding judge and court executive officer in implementing unification.

(c) The authority of the presiding judge, in conjunction with the court executive officer and appropriate individuals or working groups of the unified superior court, to act on behalf of the court to implement unification.

(d) Preparation and submission of a written personnel plan to the judges of a unified superior court for adoption.

(e) Preparation of local court rules necessary to facilitate the orderly conversion of proceedings pending in municipal courts to proceedings in superior courts, and for proceedings commenced in

superior courts on and after the date the municipal and superior courts in a county are unified. These rules shall, on the date the municipal and superior courts in a county are unified, be the rules of the unified superior court.

(f) Other necessary activities to facilitate the transition to a unified superior court.

Comment. Section 70210 mandates that the Judicial Council adopt rules of court to coordinate and guide the trial courts in effectively implementing trial court unification. The rules adopted by the Judicial Council may not be inconsistent with statute, including Section 77001, which requires that the Judicial Council promulgate rules that establish a decentralized system of trial court management and ensure that the trial court of each county establishes the means of selecting presiding judges and executive officers.

Subdivision (a) provides generally that the rules will ensure the orderly conversion of proceedings in the unified superior court as of the date the municipal and superior courts in a county are unified.

Subdivision (b) provides for the selection of the presiding judge, court executive officer, and appropriate committees or working groups to assist the presiding judge. The method of selection, and the specific duties and authorities for each will be set forth in the rules, as is currently the case in existing Rules 204, 205, 207, 532.5, 532.6, and 573 of the California Rules of Court. This preserves the balance of power that currently exists between the legislature and the judiciary.

Subdivision (c) is intended to encourage the presiding judge to work closely with the court executive officer and court committees or other working groups to implement unification decisions.

Subdivision (d) provides that the courts will develop and adopt a personnel plan. The section parallels Rule 205(11).

Subdivision (e) provides for local rule adoption. As under current practice, the Judicial Council will determine which procedural issues shall be addressed by local rule and which by statewide rule. *Cf.* Section 68070 (Judicial Council shall adopt rules or procedures to encourage uniformity of requirements throughout a court and statewide).

Examples of issues that may be addressed by rule of court under subdivision (f) include the development of informational programs for the public and the Bar about unification, and education and training programs for judicial officers and court staff to facilitate the effective transition to a unified court.

§ 70211. Effect of unification on judgeships

70211. When the municipal and superior courts in a county are unified:

(a) The judgeships in each municipal court in that county are abolished and the previously selected municipal court judges become judges of the superior court in that county. Until revised

by statute, the total number of judgeships in the unified superior court shall equal the previously authorized number of judgeships in the municipal court and superior court combined.

(b) The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court. A previously selected municipal court judge is entitled to hold office for the same time period as if the judge had remained a judge of the municipal court. Until a previously selected municipal court judge leaves office or a successor is elected and qualifies, the time for election of a successor is governed by the law otherwise applicable to selection of a municipal court judge. Thereafter, selection of a successor to the office is governed by the law governing selection of a superior court judge.

(c) The 10-year membership or service requirement of Section 15 of Article VI of the California Constitution does not apply to a previously selected municipal court judge.

Comment. Subdivision (a) of Section 70211 restates the first sentence of Constitution Article VI, Section 23(b), with the addition of a provision maintaining the total number of judgeships in the county. The Legislature prescribes the number of judges. Cal. Const. art. VI, §§ 4, 5.

The first sentence of subdivision (b) restates the second sentence of Constitution Article VI, Section 23(b). The second sentence makes clear that the “term of office” of a previously selected municipal court judge is to be determined by reference to statutes governing the tenure in office of a municipal court judge. See Gov’t Code §§ 71141, 71145, 71180. The third and fourth sentences of subdivision (b) provide guidance in applying timing rules for judicial elections during the transition from municipal to superior court. For the timing of municipal court elections, see Government Code Sections 71141, 71145, 71180; for the timing of superior court elections, see Constitution Article VI, Section 16(b), (c).

Under the rules provided in subdivision (b), an appointed municipal court judge who at the time of unification would have been entitled to hold office for the remainder of a term, is entitled to hold office as a superior judge for the same period. If the vacancy to which the judge was appointed occurs within 10 months of the general election preceding the end of the term, the judge would be entitled to hold office until the next succeeding general election, notwithstanding an intervening unification. See Gov’t Code § 71180(a). These transitional rules apply only until the first election after unification, or until the incumbent judge at the time of unification leaves office, whichever occurs first. Thereafter standard rules governing tenure and election of superior court judges apply in the unified court.

Subdivision (c) restates the third sentence of Constitution Article VI, Section 23(b).

The references in this section to a “previously selected” judge includes selection by election or by appointment to fill a vacancy. *Cf. Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm’n Reports 1, 82 (1994) (Article VI, § 23(b) Comment).

§ 70212. Transitional provisions

70212. Except as provided by statute to the contrary, in a county in which the municipal and superior courts become unified, the following shall occur automatically in each preexisting municipal and superior court:

(a) Previously selected officers (including subordinate judicial officers), employees, and other personnel who serve the court become the officers and employees of the superior court.

(b) Preexisting court locations are retained as superior court locations.

(c) Preexisting court records become records of the superior court.

(d) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.

(e) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.

(f) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

(g) Subpoenas, summons of jurors, and other process issued by the court shall be enforceable by the superior court.

(h) The superior court and each judge of the superior court has all the powers and shall perform all of the acts that were by law conferred on or required of any court superseded by the superior court and any judge of the superseded court, and all laws applicable to the superseded court not inconsistent with the statutes

governing unification of the municipal and superior courts, apply to the superior court and to each judge of the court.

Comment. Subdivisions (a)-(f) of Section 70212 restate Constitution Article VI, Section 23(c). Although embodied in the Constitution, these provisions are subject to variation by statute. See Cal. Const. art. VI, § 23(c) (introductory clause).

The reference in subdivision (a) to officers, employees, and other personnel who serve the court includes court commissioners, traffic referees, court reporters, and all other municipal court personnel. See *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1, 82 (1994) (Article VI, § 23(c)(1) Comment) ("Among the previously selected officers, employees, and other personnel who serve the court and who become officers and employees of the superior court pursuant to subdivision (c)(1) are persons such as commissioners and referees appointed to perform subordinate judicial duties as provided for pursuant to Section 22 (subordinate judicial officers, court reporters, interpreters and translators, court clerks, and sheriffs, marshals, and constables).")

Subdivision (g) makes clear that process issued by a municipal court remains enforceable by the superior court after unification.

Subdivision (h) is drawn from Section 71003 (powers of municipal court judge). Under this provision, if a statute provides for remand to or other proceedings in, or before a judge of, a municipal court that no longer exists as a result of the unification of the municipal and superior courts in a county, the proceedings are in the superior court in the county.

§ 70213. Judicial Council forms and rules

70213. (a) In a county in which the municipal and superior courts become unified, until revised by the Judicial Council, forms for proceedings within the jurisdiction of municipal courts may be used as if the proceedings were in a municipal court.

(b) The Judicial Council may adopt rules resolving any problem that may arise in the conversion of statutory references from the municipal court to the superior court in a county in which the municipal and superior courts become unified.

Comment. Section 70213 is intended to provide transitional Judicial Council rulemaking authority on procedural matters and not on matters of substantive law. The rules adopted by the Judicial Council may not be inconsistent with statute. Cal. Const. art. VI, § 6. See also Section 68070(b) ("The Judicial Council shall adopt rules or procedures to encourage uniformity of requirements throughout a court and statewide.").

§ 70214. Commissioners and referees

70214. When the municipal and superior courts in a county are unified:

(a) Until revised by statute, the total number of authorized court commissioners in the unified superior court shall equal the previously authorized number of court commissioners in the municipal court and superior court combined.

(b) Until revised by statute, the total number of authorized traffic referees or traffic trial commissioners in the unified superior court shall equal the previously authorized number of court traffic referees or traffic trial commissioners in the municipal court.

(c) The superior court or its judges may make appointments previously authorized to be made by a municipal court or its judges.

(d) Commissioners and referees of the unified superior court shall have all of the powers and authority of commissioners and referees of superior courts and of municipal courts.

Comment. Section 70214 maintains the total authorized number of court commissioners and traffic referees or traffic trial commissioners in the county on unification of the municipal and superior courts in the county. For existing authority to appoint superior court commissioners, see Section 70141 *et seq.* Existing authority to appoint municipal court commissioners is found among county-specific statutes in the Government Code governing municipal courts. *Cf.* Sections 72000-74991. For existing authority to appoint municipal court traffic referees, see Section 72400. For existing authority to appoint municipal court traffic trial commissioners, see Section 72400.

§ 70215. County-specific legislation

70215. The provisions of this article and other statutes governing unification of the municipal and superior courts in a county shall prevail over inconsistent statutes otherwise applicable to the municipal or superior courts in the county, including but not limited to statutes governing the number of judges, selection of a presiding judge, selection of a court executive officer, and employment of officers (including subordinate judicial officers), employees, and other personnel who serve the court.

Comment. Section 70215 is added to accommodate prompt unification of the municipal and superior courts in a county when approved by a majority of the judges of those courts. Cal. Const. art. VI, § 5(e). If the courts in a particular county elect to unify, the codes should be reviewed at that time to determine

whether special statutes relating to the courts in that county should be revised or repealed. Section 70215 provides guidance pending enactment of such legislation.

The reference to officers, employees, and other personnel who serve the court includes court commissioners, traffic referees, court reporters, and all other municipal court personnel. See *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1, 82 (1994) (Article VI, § 23(c)(1) Comment) (“Among the previously selected officers, employees, and other personnel who serve the court and who become officers and employees of the superior court pursuant to subdivision (c)(1) are persons such as commissioners and referees appointed to perform subordinate judicial duties as provided for pursuant to Section 22 (subordinate judicial officers, court reporters, interpreters and translators, court clerks, and sheriffs, marshals, and constables).”)

§ 70216. Unification during municipal court election

70216. (a) If unification of the municipal and superior courts within a county occurs during an election of a municipal court judge, the conduct of the direct primary election and general election is governed by the law otherwise applicable to election of a municipal court judge.

(b) A judge elected pursuant to this section shall be deemed to be a previously selected municipal court judge within the meaning of subdivision (b) of Section 23 of Article VI of the California Constitution.

(c) As used in this section, “during an election” means during the period beginning on the 127th day before a direct primary election and ending on the day of the general election.

Comment. Section 70216 is added to clarify how Article VI, Section 23 of the California Constitution applies where unification occurs during a municipal court election.

Under subdivision (a), the election proceeds as originally planned, helping to promote an orderly transition to unification. Cal. Const. art. VI, § 23(a).

Under subdivision (b), the winner of the election is a previously selected municipal court judge, and thus becomes a superior court judge through unification. Cal. Const. art. VI, § 23(b).

Subdivision (c) makes clear that Section 70216 applies where unification occurs between (1) the first day for filing a declaration of intention to become a candidate for a municipal court judgeship, and (2) the day of the general election. See Elec. Code §§ 8020 (nomination documents “shall first be available on the 113th day prior to the direct primary election”), 8022 (declaration of intention to become a candidate shall be filed “not more than 14

nor less than five days prior to the first day on which nomination papers may be presented for filing”).

§ 70217. Effect of unification on court personnel

☞ **Note.** In addition to the Law Revision Commission’s proposed legislation on implementing trial court unification, Senate Bill 2139 (Lockyer) includes proposed Government Code Section 70217, which addresses the effect of unification on court personnel. The text of that section is not included here, because the Commission’s study did not encompass those issues and the provision has not yet been enacted. See “Employment Issues,” *supra* at 76-81.

§ 70218. Effect of unification on bargaining units

☞ **Note.** In addition to the Law Revision Commission’s proposed legislation on implementing trial court unification, Senate Bill 2139 (Lockyer) includes proposed Government Code Section 70218, which addresses the effect of unification on bargaining units. The text of that section is not included here, because the Law Revision Commission’s study did not encompass those issues, and the provision has not yet been enacted. See “Employment Issues,” *supra* at 76-81.

§ 70219. Judicial Council and Law Revision Commission studies and recommendations

70219. On submission by the California Law Revision Commission of its report to the Governor and Legislature pursuant to Resolution Chapter 102 of the Statutes of 1997 recommending statutory changes that may be necessitated by court unification, the Judicial Council and the Law Revision Commission shall study and make recommendations to the Governor and Legislature on the issues identified in the report as appropriate for future study, including consideration of the experience in counties in which the courts have unified. Each agency shall assume primary or joint responsibility for the studies and recommendations as outlined in the report, and each agency shall consult with the other in the studies and recommendations. This section does not limit any authority of the Judicial Council or the Law Revision Commission to conduct studies and make recommendations authorized or directed by law.

Comment. Section 70219 is intended to provide an institutional mechanism for continuing improvement of judicial administration and procedure in light of unification of the courts. Issues identified by the California Law Revision Commission as appropriate for future study in its report on trial court unification, and recommended primary and joint responsibility of the Judicial

Council and Law Revision Commission, may be found in *Trial Court Unification: Revision of Codes*, 28 Cal L. Revision Comm'n Reports 51 (1998). The studies include such matters as repeal of obsolete statutes relating to expired pilot projects and prior court and personnel restructurings, reorganization of statutes governing court fees, adjustment of jurisdictional limits for economic litigation and small claims procedures, clarification of provisions appearing to give municipal and superior courts concurrent jurisdiction in certain cases, and cataloging cases within the appellate jurisdiction of the courts of appeal on June 30, 1995.

Heading of Chapter 6 (commencing with Section 71001) (amended)

SEC. _____. The heading of Chapter 6 (commencing with Section 71001) of Title 8 of the Government Code is amended to read:

**CHAPTER 6. PROVISIONS RELATING TO
BOTH MUNICIPAL AND JUSTICE COURTS**

Comment. The heading of Chapter 6 (commencing with Section 71001) of Title 8 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71002 (amended). Municipal court quarters

SEC. _____. Section 71002 of the Government Code is amended to read:

71002. The board of supervisors shall provide suitable quarters for the municipal courts ~~and justice courts~~, including heating, lighting, and janitorial services, and shall supply them with furniture, books, and supplies necessary for carrying out their duties, including supplies and equipment for the preparation and maintenance of duplicate records of the court or a division of the court when sessions are held at more than one place.

Comment. Section 71002 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71004 (amended). Municipal court clerk powers

SEC. _____. Section 71004 of the Government Code is amended to read:

71004. Whenever by law any power is conferred, or duty imposed, upon a clerk of any court superseded by a municipal ~~or justice court~~, the person discharging the same or similar duties in

the municipal ~~or justice~~ court has the same power and duty with respect to ~~his~~ *the* office in the municipal court ~~or justice court~~.

Comment. Section 71004 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71010 (amended). Municipal court management review

SEC. _____. Section 71010 of the Government Code is amended to read:

71010. (a) A board of supervisors may authorize a management review of a municipal ~~or justice~~ court in that county. The board shall select the agency to perform the review.

(b) At least 30 days before the scheduled beginning of the management review, the board shall notify the presiding judge of the court to be reviewed of the review and of the identity of the reviewing agency selected by the board. The court may object to the board's choice of a reviewing agency within 30 days of this notification.

(c) If the court does object to the board's choice, the board and the court shall, within 30 days of the objection, select a reviewing agency acceptable to both board and court. If the board and court fail to agree on a reviewing agency within the 30 days, the management review shall not take place.

(d) Management reviews conducted pursuant to this section shall not infringe on the judicial duties or the decisions of the court which is the subject of the review. Recommendations resulting from such reviews shall not infringe on the judicial duties or the decisions of the court which is the subject of the review and shall be advisory only. The reviewing agency shall have no power of enforcement.

Comment. Section 71010 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71040 (amended). Municipal court districts

SEC. _____. Section 71040 of the Government Code is amended to read:

71040. As public convenience requires, the board of supervisors shall divide the county into judicial districts for the purpose of electing judges and other officers of municipal ~~and justice~~ courts,

and may change district boundaries and create other districts. No city or city and county shall be divided so as to lie within more than one district.

Comment. Section 71040 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

In a county in which the superior and municipal courts have unified, a statutory reference to a judicial district means the county rather than a former municipal court district (unless the provision or context requires otherwise). See Code Civ. Proc. § 38 & Comment.

Gov't Code § 71042.5 (amended). Preservation of judicial districts for purpose of publication

SEC. _____. Section 71042.5 of the Government Code is amended to read:

71042.5. Notwithstanding any other provision of law, upon consolidation of judicial districts *or unification of municipal and superior courts in a county*, the territory embraced within the respective prior component judicial districts shall be separate judicial districts for the purpose of publication within a judicial district.

Comment. Section 71042.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). This preserves the effect of statutes that specify publication by judicial district, rather than by county. See, e.g., Bus. & Prof. Code § 21707; Civ. Code §§ 2924f, 3440.1, 3440.5; Code Civ. Proc. §§ 701.540, 1208.5; Com. Code §§ 6105, 7210; Rev. & Tax. Code §§ 3381, 3702. Cf. Code Civ. Proc. § 38 (“judicial district” defined, subject to contrary statute).

Gov't Code § 71045 (amended). Municipal court names

SEC. _____. Section 71045 of the Government Code is amended to read:

71045. Each judicial district shall be named by the board of supervisors of the county in which it is situated, and the municipal ~~or justice~~ court established in the district shall be designated by that name. The board of supervisors shall select a name which as nearly as possible identifies the communities embraced in the district.

Comment. Section 71045 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71080 (amended). Establishment of municipal court

SEC. _____. Section 71080 of the Government Code is amended to read:

71080. (a) Upon the establishment of a municipal ~~or justice~~ court, the judges of existing courts ~~inferior to the superior court~~ *municipal courts* in any city, township, or judicial subdivision situated wholly or partly in the district or city and county for which a municipal ~~or justice~~ court is established shall, if eligible, become the judges of the municipal ~~or justice~~ court until the election or appointment and qualification of their successors. The time for election and qualification of their successors shall be that previously fixed for the election and qualification of their successors for the court and office superseded, had such courts not been superseded, but in no event shall that election of successors be held within 10 months of succession to the office of the new court.

(b) If the number of eligible incumbent judges who have not filed a written statement with the county elections official disclaiming their desire to succeed to office exceeds the number of judicial offices provided by law for the municipal ~~or justice~~ court, the incumbents shall not automatically succeed to judicial positions in the municipal ~~or justice~~ court, and the existing courts shall continue to function within the district until the first judge or judges of the municipal ~~or justice~~ court are elected by the qualified electors of the district at the first statewide general election held following the expiration of 90 days and qualify.

In any election for the first judge or judges of that municipal ~~or justice~~ court, only those incumbents may appear on the ballot and be elected, and Article 1 (commencing with Section 8200) of Chapter 2 of Division 8 of the Elections Code shall not apply. If only one incumbent is to be elected, the incumbent receiving the highest number of votes cast shall be declared elected. If two or more incumbents are to be elected, those incumbents equal in number to the number to be elected who receive the highest number of votes for the office shall be declared elected. The incumbents elected shall become the judges of the municipal ~~or justice~~ court until the election or appointment and qualification of

their successors. The time for election and qualification of their successors shall be that previously fixed for the election and qualification of their successors for the court and office superseded, had the courts not been superseded, but in no event shall that election of successors be held within 10 months of succession to the office of the new court.

Comment. Section 71080 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71080.5 (repealed). Shasta County judicial election

SEC. _____. Section 71080.5 of the Government Code is repealed.

~~71080.5. Notwithstanding Section 71080, where action is taken and has become effective at least 10 days before the declarations of candidacy as required by Article 1 (commencing with Section 8200) of Chapter 2 of Division 8 of the Elections Code to create, by consolidation, annexation, or otherwise, a judicial district having in excess of 40,000 residents in Shasta County, and where the consolidation, annexation, or other action is to be effective concurrently with the end of the term of the justice court judge or judges, the election immediately following the action shall be for the office or offices of municipal court judge for the new municipal court and any otherwise qualified person may be a candidate therefor.~~

Comment. Section 71080.5 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71080.6 (repealed). Glenn County judicial election

SEC. _____. Section 71080.6 of the Government Code is repealed.

~~71080.6. Notwithstanding Section 71080 or any other section of this code, where action is taken and has become effective at least 10 days before the declarations of candidacy as required by the Elections Code for a special election, to create by consolidation, annexation, or otherwise, a new justice court judicial district in Glenn County, and where the consolidation, annexation, or other action is to be operative concurrently with the end of the term of the justice court judge or judges, the Board of Supervisors of~~

~~Glenn County shall call for a special election for the office of justice court judge for the new justice court and any otherwise qualified person may be a candidate therefor, and the special election shall be held prior to the vacancy actually occurring in the new justice court, and the Board of Supervisors of Glenn County shall consolidate the special election with the general election, as defined by subdivision (a) of Section 324 of the Elections Code, immediately following the action. The person receiving the highest number of votes cast shall be elected.~~

Comment. Section 71080.6 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71080.7 (repealed). Lassen County judicial election

SEC. _____. Section 71080.7 of the Government Code is repealed.

~~71080.7. Notwithstanding the provisions of Section 71080, where action is taken and has become effective at least 10 days before the declarations of candidacy as required by the Elections Code for a special election, to create, by consolidation, annexation, or otherwise, a new justice court judicial district in Lassen County, and where the consolidation, annexation, or other action is to be operative concurrently with the end of the term of the justice court judge or judges, the Board of Supervisors of Lassen County shall call for a special election for the office of justice court judge for the new justice court and any otherwise qualified person may be a candidate therefor, and such special election shall be held prior to the vacancy actually occurring in the new justice court. The person receiving the highest number of votes cast shall be elected.~~

Comment. Section 71080.7 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71083 (amended). Judicial district annexation

SEC. _____. Section 71083 of the Government Code is amended to read:

71083. Whenever the territory of a judicial district (herein called the annexed district) is annexed to a judicial district theretofore having a municipal court (herein called the annexing district), a judge of a court partly or wholly superseded thereby shall, if

eligible, succeed to the first vacant judgeship on such municipal court, whether such vacancy then exists or occurs within two years thereafter through the creation of a new judgeship or otherwise, if any one of the following subdivisions apply:

(a) All of the territory of the annexed district is annexed to the annexing district.

(b) A part of the territory of the annexed district is annexed to the annexing district and in such part more than 10 percent of the residents of the annexed district reside, as determined prior to the annexation.

~~(c) The annexed district is a judicial district with a justice court, and a part of its territory is annexed to the annexing district, and the justice court is discontinued by the board of supervisors under Section 71097.~~

Whenever part of an annexed district is annexed to an annexing district and because of the application of subdivisions ~~(b) or (c)~~ *subdivision (b)*, above, a judge of the annexed district becomes entitled to succeed to a vacant judgeship as above provided, no subsequent annexation of all or part of the remainder of the annexed district to the same annexing district shall entitle any judge of the annexed district to succeed to a vacant judgeship in the annexing district.

Whenever all of the territory of a judicial district is annexed to two or more judicial districts both or all of which theretofore have a municipal court, a judge of the court wholly superseded thereby shall, if eligible, succeed to the first vacant judgeship on any such municipal court, whether such vacancy then exists or occurs within two years thereafter through the creation of a new judgeship or otherwise.

Whenever the number of judges entitled to succeed as above provided exceeds the number of vacant judgeships on such municipal court, the order of their succession shall be determined as follows: by seniority as a judge within the territory annexed, and, in the case of successive annexations, within the territory annexed at the earlier date; and, in any remaining case, by lot between them.

Any judge entitled to succeed as above provided shall declare his *an* acceptance of the judgeship for which a vacancy exists or occurs within 30 days of the date of annexation if the vacancy exists upon the date of annexation or, if no such vacancy then exists, within 30 days of the occurrence of the vacancy later occurring.

This section, as amended at the 1959 Regular Session of the Legislature, applies to annexations occurring before or after the effective date of the amendment to this section enacted at the 1959 Regular Session of the Legislature and ~~no judge who, before the effective date of such amendment, became entitled to succeed to vacancy on a municipal court and who has not succeeded to such vacancy before such effective date shall be entitled to so succeed unless he would be so entitled under this section as amended at the 1959 Regular Session.~~

Comment. Section 71083 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). It is also amended to eliminate an obsolete transitional provision.

Gov't Code § 71084 (repealed). Justice court superseded by municipal court

SEC. _____. Section 71084 of the Government Code is repealed.

~~71084. Whenever a municipal court is established in a district in which a justice court was previously established or in a district formed from territory formerly included in justice court districts, the justice court shall cease to exist within the district for which the municipal court is established, and the term of office of the judges of justice courts situated wholly within such district shall terminate upon the selection and qualification of the first judges of the municipal court. The selection shall be made pursuant to Sections 71080 and 71081.~~

Comment. Section 71084 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71085 (amended). Municipal court employees

SEC. _____. Section 71085 of the Government Code is amended to read:

71085. (a) The clerk, or chief clerical officer by whatever name known, the marshal, or similar official, their deputies and attaches, and all other officers or employees of each court wholly or partly superseded by a municipal ~~or justice~~ court, shall become the clerk, the marshal, their deputies and attaches, and officers or employees of that municipal ~~or justice~~ court upon its organization, so far as those positions are provided by law. If no provision is made by law for officers and employees of a municipal court, there shall be the officers and employees for that court specified in subdivision (b). They shall receive compensation for their services fixed by the judge, if there are one or more other municipal courts in the county in which the court is established, at a rate comparable to but not greater than that provided by law for comparable officers and employees in any other municipal court in the county. If there is no other municipal court in the county in which the court is established, the officers and employees of the court shall receive the compensation for their services fixed by the judge within the ranges provided below until express provision has been made for officers and employees of the court, except that if any officer or employee was receiving compensation in a superseded justice court greater than the maximum range provided in this section for a comparable position in the municipal court, he or she shall continue to receive that compensation until express provision has been made by law for officers and employees of that municipal court. The interim compensation fixed by the judge shall be effective only until the 61st day after final adjournment of the next succeeding regular session of the Legislature.

(b) There shall be one clerk of the court who shall receive a monthly salary in the following range: six hundred dollars (\$600), six hundred fifty dollars (\$650), seven hundred dollars (\$700).

The clerk may appoint with the approval of the judge as many deputies as may be necessary who shall receive a monthly salary in the following range: three hundred fifty dollars (\$350), three hundred seventy-five dollars (\$375), four hundred dollars (\$400), four hundred twenty-five dollars (\$425), four hundred fifty dollars (\$450), four hundred seventy-five dollars (\$475), five hundred dollars (\$500).

There shall be one marshal. His or her monthly salary shall be in the following range: five hundred dollars (\$500), five hundred fifty dollars (\$550), six hundred dollars (\$600).

The marshal may appoint with the approval of the judge as many deputy marshals as may be necessary. The monthly salary of a deputy marshal shall be in the following range: four hundred dollars (\$400), four hundred fifty dollars (\$450), five hundred dollars (\$500), five hundred fifty dollars (\$550).

The judge of an existing court who does not succeed to judicial office shall be deemed to be a clerk or chief clerical officer within the meaning of this section.

Comment. Section 71085 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71087 (repealed). Election of marshal

SEC. _____. Section 71087 of the Government Code is repealed.

~~71087. When a constable who has been elected becomes a marshal, he shall continue in office until his successor is elected and qualifies, and in such cases the marshal shall be elected by the electors of the judicial district at the general state election for a term of six years from and including the first Monday in January after the January 1st next succeeding his election. The first election of marshals pursuant to the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, shall take place at the general state election held in 1954.~~

Comment. Section 71087 is repealed to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71088 (amended). Municipal court bailiffs

SEC. _____. Section 71088 of the Government Code is amended to read:

71088. Any police officer appointed and acting as bailiff in any court superseded by a municipal ~~or justice~~ court shall be deemed to be appointed ex officio a deputy marshal subject to the same conditions under which he or she was first appointed, without prejudice to his or her rights by virtue of his employment as police officer.

Comment. Section 71088 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71091 (amended). Employees of municipal courts

SEC. _____. Section 71091 of the Government Code is amended to read:

71091. If it appears that two or more clerks, marshals, deputies, and other officers or attaches are equally entitled by virtue of the office held in any superseded court, to any one office in the municipal ~~or justice~~ court, the judge, a majority of the judges, or the judge senior in service when there is an equal division of the judges shall determine which person is entitled to the office in which the conflict exists, ~~unless the office in which the conflict exists is that of constable of a justice court, in which case the board of supervisors of the county in which the court is situated shall determine which person is entitled to the office.~~

Comment. Section 71091 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71091.1 (repealed). Glenn County judicial election

SEC. _____. Section 71091.1 of the Government Code is repealed.

~~71091.1. Notwithstanding Section 71091, where action is taken and has become effective to create by consolidation, annexation, or otherwise, a new justice court judicial district in Glenn County, and where the consolidation, annexation, or other action is to be operative during the terms of the constables affected, the Board of Supervisors of Glenn County shall call for a special election for the office of constable for the new justice court and only those incumbents may appear on the ballot and be elected, and the special election shall be held prior to the excess number of constables actually occurring in the new justice court, and the Board of Supervisors of Glenn County shall consolidate the special election with the general election, as defined by subdivision (a) of Section 324 of the Elections Code, immediately following the action. The person receiving the highest number of votes cast shall be elected and shall hold office for the balance of his original term of the office superseded.~~

Comment. Section 71091.1 is repealed to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71092 (amended). Employees in superseded municipal court

SEC. _____. Section 71092 of the Government Code is amended to read:

71092. So far as practical, upon the organization of the court, the clerks, deputies, and attaches or employees of the superseded court shall be assigned to positions in the municipal ~~or justice~~ court similar in duties and compensation to the positions held in the superseded court.

Comment. Section 71092 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71093 (amended). Employees in superseded municipal court

SEC. _____. Section 71093 of the Government Code is amended to read:

71093. Every person who succeeds to any office or position in the municipal ~~or justice~~ court pursuant to the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, is entitled to all of the benefits and privileges, not inconsistent with such act or provisions of law, which attached to such person by virtue of his *an* office or position in any superseded court.

Comment. Section 71093 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71094 (amended). Employees in superseded municipal court

SEC. _____. Section 71094 of the Government Code is amended to read:

71094. Continuous employment in a court superseded by a municipal ~~or justice~~ court, or in a court previously superseded by such superseded court, of the officers and attaches of such superseded court who succeed to positions in a municipal ~~or justice~~ court pursuant to the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, shall be considered as prior service within the definition of that term in any retirement or

pension system adopted which includes municipal ~~or~~ justice court officers and attaches.

Comment. Section 71094 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71095 (amended). Court records

SEC. _____. Section 71095 of the Government Code is amended to read:

71095. All actions pending in, and records of, every *municipal* court ~~inferior to the superior court~~ in any city, city and county, township, or judicial subdivision situated wholly within a district for which a municipal ~~or~~ justice court is established shall, upon the supersedure of such existing court, be transferred to and become cases pending in and records of the municipal ~~or~~ justice court. All actions pending in, and records of, an existing court in any township or judicial subdivision situated partly within one district for which a municipal ~~or~~ justice court is established and partly within another such district shall, upon the supersedure of such existing court, be transferred to and become cases pending in and records of the municipal ~~or~~ justice court of the district in which the action should have been brought had such court been established and organized when the action was brought.

Comment. Section 71095 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71096 (repealed). Annexation of judicial district

SEC. _____. Section 71096 of the Government Code is repealed.

~~71096. Whenever all of a judicial district in which a justice court is established is annexed to a district with a municipal court, the cases pending in and records of the justice court in the territory so annexed shall, upon the supersedure of such court, become cases pending in, and the records of, the municipal court.~~

Comment. Section 71096 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71097 (repealed). Annexation of judicial district

SEC. _____. Section 71097 of the Government Code is repealed.

~~71097. Whenever part of a judicial district in which a justice court is established is annexed to a district with a municipal court, the justice court shall continue in the part of the district not so annexed unless otherwise provided by the board of supervisors. The cases pending in, and records of, such justice court shall continue in that court.~~

Comment. Section 71097 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71098 (amended). Pending actions

SEC. _____. Section 71098 of the Government Code is amended to read:

71098. Any action pending in the superior court upon the establishment and organization in the county of a municipal or justice court which would be within the jurisdiction of the municipal or justice court if commenced after its establishment shall continue in the superior court until final determination.

Comment. Section 71098 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71099 (amended). Prosecution of misdemeanors

SEC. _____. Section 71099 of the Government Code is amended to read:

71099. Whenever a municipal or justice court is established in a city and county or in a district containing a city in which there is an officer charged with the duty of prosecuting misdemeanor charges in a court superseded by such municipal or justice court, ~~he~~ *the officer* shall prosecute all such misdemeanor charges in the municipal or justice court with the same rights, duties, and privileges that ~~he~~ *the officer* formerly exercised with respect to such charges in the superseded court, including the prosecution of appeals in criminal cases arising in the municipal or justice court and the defense of all writs arising out of arrests for offenses triable in the municipal or justice court in whatever court or courts they may be appealed to or initiated in.

Comment. Section 71099 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71100 (amended). Duties relating to misdemeanor charges

SEC. _____. Section 71100 of the Government Code is amended to read:

71100. Whenever a municipal ~~or justice~~ court is established in a city and county or in a district containing a city in which there is a probation officer, public defender, parole board, or other officer or board charged with duties relating to misdemeanor charges prosecuted in a court superseded by the municipal ~~or justice~~ court, the boards, officers, and their deputies shall perform the same duties in the municipal ~~or justice~~ court as they performed in the superseded court.

Comment. Section 71100 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71140 (amended). Municipal judge residency

SEC. _____. Section 71140 of the Government Code is amended to read:

71140. The judges of a municipal court ~~and the judges of a justice court~~ shall be residents eligible to vote in the judicial district or city and county in which they are elected or appointed for a period of at least 54 days prior to the date of their election or appointment. This requirement shall not affect the right of any person to automatically succeed to an office or position pursuant to Sections 71080 to 71083, inclusive, and Sections 71085 to 71090, inclusive, ~~nor the right of any person to be constable in any county governed by a freeholders' charter which provides that constables shall be appointed by the sheriff, or shall be ex officio deputy sheriffs.~~

This requirement shall not apply to a judge of a municipal court for the rest of his or her unexpired term and for one successive term of office for which he or she is subsequently reelected when:

(a) ~~He~~ *The judge* has succeeded to office under the provisions of Section 71083 and his or her residence is not in the annexed district.

(b) Part of a municipal court district is annexed to another municipal court district and the judge of the original district lives in the part that is annexed.

Comment. Section 71140 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71141 (amended). Municipal judge elections

SEC. _____. Section 71141 of the Government Code is amended to read:

71141. Judges of the municipal court ~~and justice court~~ shall be elected at the general state election next preceding the expiration of the term for which the incumbent has been elected.

Comment. Section 71141 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71143 (amended). Municipal judge elections

SEC. _____. Section 71143 of the Government Code is amended to read:

71143. The provisions of the Elections Code relating to the nomination and election of judicial officers apply to the judges of municipal ~~and justice~~ courts.

Comment. Section 71143 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71145 (amended). Municipal judge term

SEC. _____. Section 71145 of the Government Code is amended to read:

71145. The term of office of judges of municipal ~~and justice~~ courts is six years from and including the first Monday of January after the January 1st next succeeding their election. Judges shall hold office until their successors are elected and qualify, but the office shall be deemed to be vacant upon the expiration of the fixed term for the purpose of selecting a successor.

Comment. Section 71145 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71180.3 (repealed). Selection of judges

SEC. _____. Section 71180.3 of the Government Code is repealed.

~~71180.3. Any vacancy in the office of judge of a justice court shall, at the option of board of supervisors of the county in which the justice court is situated, be filled by appointment by the board~~

~~of supervisors, or by election at a special election called by the board of supervisors which shall be conducted in the same manner as the election of city councilmen in general law cities as set forth in the Elections Code except that the special election shall be conducted by the county, but no vacancy shall be deemed to exist in any such office before the time fixed in Section 71080 for the selection of the judges of such court and the time fixed by law for their qualification. Any person so appointed or elected shall hold office until his successor is elected and qualifies.~~

~~A successor to such appointee shall be elected at the next general state election after the first day of January next succeeding the occurrence of the vacancy, unless the vacancy occurs in a year in which a general state election is held at which a person is elected, in the same manner as he would have been elected had the vacancy not occurred, to fill the office for the ensuing full six-year term and such person actually qualifies and takes office at the commencement of the term for which he was elected. The elected successor shall hold office for the duration of the unexpired term of the person originally creating the vacancy, unless the election at which the successor is elected is the election at which, had the vacancy not occurred, a person would have been elected to the office of judge for a full six-year term, in which case the elected successor shall hold for the full six-year term and until his successor is elected and qualifies.~~

~~If the office to which any person so appointed was not previously occupied, he shall hold office until his successor is elected at the general state election next succeeding the occurrence of the vacancy and qualifies. No successor to such appointee shall be elected at any election held within 10 months of the date of the occurrence of the vacancy.~~

Comment. Section 71180.3 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71180.4 (repealed). Appointment of judge

SEC. _____. Section 71180.4 of the Government Code is repealed.

~~71180.4. Any vacancy in the office of judge of a justice court filled by appointment by the board of supervisors on and after October 1, 1963, shall be filled in accordance with this section if there are more than three eligible candidates for the appointment. In any such case the board of supervisors shall request the appointment of an oral examining board pursuant to Section 71601.3. The oral board shall interview and rank all eligible candidates in accordance with rules of procedure adopted by the Judicial Council. Appointments by the board of supervisors shall be made from among the three highest candidates certified by the oral board.~~

Comment. Section 71180.4 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71180.5 (amended). Retirement notification

SEC. _____. Section 71180.5 of the Government Code is amended to read:

71180.5. Upon the appointment, election, death, removal, or resignation of a judge of a municipal ~~or~~ justice court, the clerk or administrator of that municipal ~~or~~ justice court shall immediately give the Judges' Retirement System or the Judges' Retirement System II written notice thereof.

Comment. Section 71180.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71181 (amended). Vacancies

SEC. _____. Section 71181 of the Government Code is amended to read:

71181. All vacancies in the office of clerk of a municipal ~~or~~ justice court and marshal of a municipal court shall be filled by appointment by the judge, by a majority of the judges, or by the judge senior in service when there is an equal division of the judges. All vacancies in the clerk's office shall be filled by appointment by the clerk.

Comment. Section 71181 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71181.1 (repealed). Tulare County clerk of justice court

SEC. _____. Section 71181.1 of the Government Code is repealed.

~~71181.1. Notwithstanding Section 71181, in Tulare County the ordinances and resolutions of the board of supervisors shall govern the filling of a vacancy in the office of clerk of a justice court and all vacancies in the clerk's office.~~

Comment. Section 71181.1 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71220 (amended). Salaries

SEC. _____. Section 71220 of the Government Code is amended to read:

71220. The salaries of the judges, clerks, marshals, and other officers or attaches of each municipal court ~~and justice court~~ shall be paid by the county in which the court is situated out of the salary fund or, if there is none, out of the general fund of the county.

Comment. Section 71220 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71221 (amended). Certification of compensation

SEC. _____. Section 71221 of the Government Code is amended to read:

71221. Except as otherwise provided in this section, the clerk of each municipal ~~and justice~~ court, or if there is none, the judge of the court, shall certify monthly to the county auditor a list showing the amount of compensation of the judges, clerks, and other officers and attaches of that court, except marshals. The marshal of a municipal court shall certify monthly to the county auditor a list showing the amount of compensation of the marshals of the court.

The clerk of the municipal court in the City and County of San Francisco shall certify to the county auditor a list showing the amount of compensation of the judges, clerks, and other officers and attaches of that court, except marshals, in the same manner and for the same period as for departments and employees of the City and County of San Francisco, and the auditor is authorized to pay

that compensation in the same manner and for the same period as for employees of the City and County of San Francisco.

Comment. Section 71221 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Article 7 (commencing with Section 71260) (amended)

SEC. _____. The heading of Article 7 (commencing with Section 71260) of Chapter 6 of Title 8 of the Government Code is amended to read:

Article 7. Clerk, ~~Marshal, and Constable~~ and Marshal

Comment. The heading of Article 7 (commencing with Section 71260) of Chapter 6 of Title 8 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71264 (amended). Marshals

SEC. _____. Section 71264 of the Government Code is amended to read:

71264. Whenever required, marshals shall attend the municipal ~~and justice~~ courts of the district in which they are appointed or elected to act; provided, however, that a marshal shall attend a civil action only if the presiding judge or his or her designee makes a determination that the attendance of the marshal at that action is necessary for reasons of public safety. Within their counties they shall execute, serve, and return all writs, processes, and notices directed or delivered to them by municipal ~~and justice~~ courts or by other competent authority. A marshal of a municipal court who is authorized by law to appoint not more than four deputies, shall not be required to travel outside of his or her district to serve any civil process or notice. With respect to proceedings in the municipal ~~or justice~~ court, the marshal of the court has all the powers and duties imposed by law upon the sheriff with respect to proceedings in the superior court. In a county of the third class, the marshal shall attend all superior courts held within the county, subject to the restrictions of this section or Section 26603.

Comment. Section 71264 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71267 (amended). Revolving fund

SEC. _____. Section 71267 of the Government Code is amended to read:

71267. The board of supervisors may establish a revolving fund for the use of the clerk or marshal of any municipal ~~or justice~~ court within the county pursuant to Sections 29320 to 29331, inclusive.

Comment. Section 71267 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280 (amended). Clerk's powers

SEC. _____. Section 71280 of the Government Code is amended to read:

71280. With respect to proceedings in the municipal ~~or justice~~ court the clerk of the court has all the powers conferred by law upon the clerk of the superior court with respect to proceedings in the superior court.

Comment. Section 71280 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.1 (amended). Minutes

SEC. _____. Section 71280.1 of the Government Code is amended to read:

71280.1. The clerk of every municipal ~~and justice~~ court shall keep the minutes and other records of the court, entering at length within the time specified by law, or forthwith if no time is specified, any order, judgment, and decree of the court which is required to be entered and showing the date when each entry is made. Failure so to enter the date or failure to enter the order, judgment, or decree within the time specified in this section shall not affect the validity or effectiveness of the entry.

Comment. Section 71280.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.2 (amended). Minutes

SEC. _____. Section 71280.2 of the Government Code is amended to read:

71280.2. Notwithstanding any provisions of law to the contrary, in those counties where it is required by court order or rule that the

clerk of the municipal ~~or justice~~ court place individual civil minute orders in the court's file of actions in chronological order, the clerk shall not be required to keep a minute book but shall be required to keep minutes. Nothing contained in this section shall eliminate the requirement for a judgment book where judgments and decrees are required to be entered.

Comment. Section 71280.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.3 (amended). Indexes to court records

SEC. _____. Section 71280.3 of the Government Code is amended to read:

71280.3. The clerk of a municipal ~~or justice~~ court shall keep among the records of the court such indexes as will insure ready reference to any action or proceeding filed in the court. There shall be separate indexes of plaintiffs and defendants in civil actions and of defendants in criminal actions and the name of each plaintiff and defendant shall be indexed and there shall appear opposite each name indexed the number of the action or proceeding and the name or names of the adverse litigant or litigants, if any, and the date of filing. This section does not apply to criminal actions filed by notice in lieu of a verified complaint pursuant to Section 40513 of the Vehicle Code.

Comment. Section 71280.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.4 (amended). Endorsement

SEC. _____. Section 71280.4 of the Government Code is amended to read:

71280.4. The clerk of the municipal ~~and justice~~ court shall endorse on each paper filed with the court the day, month, and year it is filed.

Comment. Section 71280.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.5 (amended). Criminal conviction records

SEC. _____. Section 71280.5 of the Government Code is amended to read:

71280.5. On and after July 1, 1997, each clerk of the municipal court *or of the superior court in a county in which there is no municipal court* shall prospectively certify and submit those court records specified by the Judicial Council which relate to criminal convictions for entry into a computer system operated by the Department of Justice that can be accessed by authorized agents of any district attorney or other state prosecuting agency. This section shall not be construed to require a ~~municipal~~ court to acquire any new equipment or to implement any new procedures.

Comment. Section 71280.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 71340 (amended). Sessions

SEC. _____. Section 71340 of the Government Code is amended to read:

71340. There may be as many sessions of a municipal ~~or justice~~ court at the same time as there are judges elected, appointed, or assigned to the court. The judgments, orders, and proceedings of any session of a municipal ~~or justice~~ court held by any one or more of the judges sitting in the court shall be equally effectual as though all the judges of the court presided at the session.

Comment. Section 71340 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71341 (amended). Sessions

SEC. _____. Section 71341 of the Government Code is amended to read:

71341. (a) Sessions of a municipal ~~or justice~~ court may be held at any place or places within the district for which the court is established. ~~The board of supervisors shall designate by ordinance the place or places within the district where sessions of the justice court shall be held. It may change the places if public convenience requires.~~

(b) Notwithstanding any other provision of law, the presiding or sole judge of a municipal ~~or justice~~ court may direct that a session of the court be held at any place in the county where any superior, ~~municipal, or justice~~ *or municipal* court regularly conducts sessions, if each of the following applies:

(1) The judge presiding at the court session is a judge of a municipal ~~or justice~~ court or a retired judge assigned to serve as a municipal ~~or justice~~ court judge under Section 6 of Article VI of the Constitution.

(2) The presiding or sole judge of the superior, ~~municipal, or justice or municipal~~ court has informed the presiding judge of the municipal ~~or justice~~ court that the court session will not interfere with the normal conduct of court business.

(3) The session is held in furtherance of a coordination plan approved under Section 68112.

Any type of proceeding may be heard in these sessions.

Comment. Section 71341 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Article 10 (commencing with Section 71380) (amended)

SEC. _____. The heading of Article 10 (commencing with Section 71380) of Chapter 6 of Title 8 of the Government Code is amended to read:

Article 10. Uniform Accounting System for ~~Municipal and Justice~~ Courts

Comment. The heading of Article 10 (commencing with Section 71380) of Chapter 6 of Title 8 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71380 (amended). Duty of State Controller

SEC. _____. Section 71380 of the Government Code is amended to read:

71380. The State Controller shall establish, supervise, and as necessary revise a uniform accounting system, including a system of audit, to the end that all fines, penalties, forfeitures, and fees assessed by courts, and their collection and appropriate disbursement, shall be properly and uniformly accounted for. The accounting system shall apply to superior courts, ~~municipal courts and justice and municipal~~ courts, together with probation offices, central collection bureaus and any other agencies having a role in this process.

Comment. Section 71380 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71381 (amended). Audits

SEC. _____. Section 71381 of the Government Code is amended to read:

71381. Such system may provide for bank accounts for each municipal ~~or justice court~~, in which money received by such court may be deposited and disbursed as provided therein, and for such records, reports, and procedures as the State Controller may deem necessary to carry out the purposes of this article.

Comment. Section 71381 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71382 (amended). Failure to keep accounts

SEC. _____. Section 71382 of the Government Code is amended to read:

71382. Every judge of a superior court, ~~municipal court or justice or municipal~~ court, or the clerk of any such court, who willfully fails to keep accounts pursuant to the system or to account for the money paid into and disbursed by ~~his~~ *the* court pursuant to the system established by the Controller pursuant to this article is guilty of a misdemeanor.

Comment. Section 71382 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71384 (amended). Audits

SEC. _____. Section 71384 of the Government Code is amended to read:

71384. The system established pursuant to this article may provide for the deposit of all money collected by municipal ~~and justice~~ courts in the county treasury, for disbursement from it, and for the audit of such accounts by the county auditor.

Comment. Section 71384 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71386 (amended). Checks and money orders

SEC. _____. Section 71386 of the Government Code is amended to read:

71386. (a) Each superior, ~~municipal, and justice~~ *and municipal* court shall adopt a written policy, consistent with rules adopted by the Judicial Council, governing the acceptance of checks and money orders in payment of any fees, fines, or bail deposits. Such policy shall permit clerks to accept checks and money orders under conditions which tend to assure their validity.

(b) A court shall accept a personal check, bank cashier's check, or money order for payment of any fee or fine, or for a deposit of bail for any offense which is not declared to be a felony, provided such check or money order meets the criteria established in subdivision (a), however, no court shall be required to accept a check in excess of three hundred dollars (\$300) from a defendant in custody as a deposit of bail for any alleged violation of the Penal Code.

(c) The acceptance of a check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.


(d) If any check offered in payment pursuant to this section is returned to the payee without payment, a reasonable charge for the returned check not to exceed the actual costs incurred by the court may be imposed to recover the court's processing and collection costs. This charge may be added to, and become part of, any underlying obligation other than an obligation which constitutes a lien on real property, or a different method of payment for that payment and future payments by such person may be prescribed. The charges imposed by a court for a returned check shall be retained by the treasurer of the county and be deposited in the county general fund.

Comment. Section 71386 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code §§ 71600-71704 (repealed). Justice courts

SEC. _____. Chapter 7 (commencing with Section 71600) of Title 8 of the Government Code is repealed.

Comment. Sections 71600-71704 are repealed to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

 **Note.** The text of the repealed provisions is set out below.

~~CHAPTER 7. JUSTICE COURTS~~

~~Article 1. Judges and Officers~~

~~71600. The board of supervisors shall prescribe the number, qualifications, and compensation of those clerks, deputies, and other attaches of justice courts that public convenience requires, notwithstanding the provisions of any charter. In any chartered county all those matters shall be regulated in the manner, if any, set forth in the charter with respect to township officers and employees.~~

~~71601.3. Upon receipt of a request from a board of supervisors pursuant to Section 71180.4, the Chair of the Judicial Council shall designate a superior court judge to act as chair of an oral examining board of three members for the purpose of interviewing candidates for the office of judge of a justice court. The chair of the oral board shall appoint two residents of the county to serve with him or her as members of the board. Members of the boards shall receive no compensation for their services, but shall receive their expenses for travel, board, and lodging under rules adopted by the Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business. These expenses shall be paid from the funds appropriated to the use of the council.~~

~~71603.3. Notwithstanding the provisions of Sections 71602 and 71603, the board of supervisors of a county with a population of 200,000 or less according to the 1970 federal census, with the concurrence of a majority of the judges affected, may by ordinance abolish the office of constable and, instead, require that the duties of constable be performed by the sheriff or marshal; provided, that if the constable holds an elective office, such an ordinance shall become effective only upon the approval of the electors of the county; and further provided, that no member of the office of the constable employed on January 1, 1987, shall lose salary, rank, or~~

benefits, and that sworn personnel assigned to duties other than the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall be exempt from meeting the requirements set by the Commission on Peace Officer Standards and Training, in the event the office of constable is abolished pursuant to this section.

71605. In addition to their salaries, judges and clerks of justice courts shall be allowed their necessary traveling expenses at the rate fixed by the board of supervisors when the business of the court requires their attendance at any session held more than 12 miles from the principal office or place designated for holding regular sessions of the court, and the board of supervisors may allow the judges, officers and attaches of justice courts other expenses incurred in the actual performance of their duties.

71607. All justice courts are courts of record.

71609. A judge of a justice court shall receive from the sheriff of his or her county, all money collected on any process or order issued from the court, and shall pay it, and all money paid to the court in his or her official capacity, over to the parties entitled or authorized to receive it, without delay.

71610. No judge of a justice court who is paid a salary shall draw or receive any monthly salary unless he makes and subscribes an affidavit before an officer entitled to administer oaths that no cause in his court, which has been submitted for decision for a period of 90 days, remains pending and undecided, that he has complied with the provisions of Sections 1802 and 1803 of the Vehicle Code and that he has reported to the Judicial Council at the times and in the manner requested by the chairman of the council concerning the condition, and manner of disposal, of judicial business in his court.

71617. Officers and attaches of a justice court shall be deemed to be county officers and employees subject to the provisions of any county employees' retirement or pension system established in the county.

~~71618. The clerk of the justice court or a deputy clerk may fix and accept bail for the appearance before the court of any defendant charged in the court with an offense of which the court has jurisdiction or whenever a defendant has been arrested within the territorial limits of said judicial district for having committed a misdemeanor. The amount of bail shall be pursuant to a schedule of bail in such cases previously fixed and approved by the magistrates of the county. If a warrant has been issued for the arrest of the defendant, the bail shall be in the amount fixed in the warrant. The bail shall be cash, negotiable United States Treasury bonds, or a surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code. If the defendant has been arrested for felony upon a warrant issued by the judge of such justice court, the clerk may, under like conditions, accept bail in the amount fixed in the warrant. The authority to accept bail provided for herein includes authority to approve it, to issue and sign an order for the release of the defendant, and to set a time and place for the appearance of the defendant before the judge of the court issuing said warrant and give the defendant notice.~~

~~Article 2. Fees of Judges~~

~~71661. When any money is paid into a justice court, each clerk of a justice court shall issue forthwith a receipt for it in triplicate upon a form prescribed by the auditor of the county in which the court is situated. The receipts shall be numbered in numerical sequence and the original copy shall be delivered to the payor, the duplicate copy shall be filed with the county auditor at the time such money is deposited in the county treasury, and the triplicate copy shall be filed in the office of the clerk.~~

~~71661.1. Notwithstanding any other provision of law, where payment of any fee, fine, deposit in lieu of bail or other obligation which is owing to the justice court is remitted to the court by mail, the clerk may either mail to the remitter or hold for six months for the remitter an official receipt for such payment, except that such receipt shall be mailed to the remitter when a receipt is specifically~~

requested by the remitter, his or her return address is given and the remittance consists of legal tender of the United States in the amount of five dollars (\$5) or more. The clerk may destroy any official receipt held pursuant to this section for a period of six months.

71662. Each clerk of a justice court shall keep posted in a conspicuous place in his office, a plain and legible notice reading substantially as follows: "Notice to Public--Each clerk of a justice court is required by law to forthwith give official receipts for any money paid into the court. Secure your receipt when payment is made."

71663. Failure, refusal, or neglect on the part of any judge of a justice court to comply with Sections 71661 and 71662 constitutes misconduct in office and is ground for removal. Any judge of a justice court who fails, refuses, or neglects to comply with the said sections is guilty of a misdemeanor.

71664.5. Except as otherwise provided by law, the clerk of each justice court shall charge, in addition to the fees prescribed by this article, the fees prescribed by Sections 72054, 72055, 72056, 72059, 72060, and 72061 for all services to be performed.

71680. The fee for administering an oath or affirmation not otherwise in this article provided for is one dollar and fifty cents (\$1.50).

71682. The fee for taking and approving a bond or undertaking, is one dollar and fifty cents (\$1.50).

Article 3. Temporary Justice Court Judgeships

71701. On and after January 7, 1975, each justice court vacancy shall be filled by an attorney judge who shall at the time of his selection be a resident of the county.

71703. The Judicial Council shall report to the Legislature and to the Governor on or before June 1, 1975, its recommendations for

~~the organization of the justice courts of the state so that judgeships can be filled on a permanent basis at the elections held in 1976.~~

~~71704. The Judicial Council shall adopt rules of administration to implement the provisions of this article.~~

Heading of Chapter 8 (commencing with Section 72000) (amended)

SEC. _____. The heading of Chapter 8 (commencing with Section 72000) of Title 8 of the Government Code is amended to read:

CHAPTER 8. MUNICIPAL AND SUPERIOR COURTS

Comment. The chapter heading of Chapter 8 (commencing with Section 72000) is amended to reflect the fact that some of the provisions of the chapter may apply in the superior court in a county in which there is no municipal court. See, e.g., Sections 72055-72060 (fees), 72301-72302 (bail). Application of any specific provision is to be determined by the provision and not by the chapter heading. See Section 6 (headings do not affect scope, meaning, or intent of provisions).

Gov't Code § 72055 (amended). First filing fee in limited civil cases

SEC. _____. Section 72055 of the Government Code is amended to read:

72055. The total fee for filing of the first paper in a ~~civil action or proceeding in the municipal court~~ *limited civil case*, shall be ninety dollars (\$90), except that in cases where the amount demanded, excluding attorney's fees and costs, is ten thousand dollars (\$10,000) or less, the fee shall be eighty-three dollars (\$83). The amount of the demand shall be stated on the first page of the paper immediately below the caption.

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 704.750, or 708.160 of the Code of Civil Procedure.

The term "total fee" as used in this section and Section 72056 includes any amount allocated to the Judges' Retirement Fund pursuant to Section 72056.1, any automation fee imposed pursuant to Section 68090.7, any construction fee imposed pursuant to

Section 76238, and the law library fee established pursuant to Article 2 (commencing with Section 6320) of Chapter 5 of Division 3 of the Business and Professions Code. The term “total fee” as used in Section 72056 includes any dispute resolution fee imposed pursuant to Section 470.3 of the Business and Professions Code. The term “total fee” as used in this section also includes any dispute resolution fee imposed pursuant to Section 470.3 of the Business and Professions Code, but the board of supervisors of each county may exclude any portion of this dispute resolution fee from the term “total fee.”

The fee shall be waived in any action for damages against a defendant, based upon the defendant’s commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

Comment. Section 72055 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov’t Code § 72056 (amended). First filing fee in limited civil cases

SEC. _____. Section 72056 of the Government Code is amended to read:

72056. The total fee for filing of the first paper in a ~~civil action or proceeding~~ *limited civil case* on behalf of any party other than plaintiff shall be eighty dollars (\$80).

Comment. Section 72056 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov’t Code § 72056.01 (amended). Filing fee for amended complaint or cross-complaint

SEC. _____. Section 72056.01 of the Government Code is amended to read:

72056.01. (a) The fee for filing an amended complaint or amendment to a complaint in a ~~civil action or proceeding in the municipal court~~ *limited civil case* is forty-five dollars (\$45).

(b) The fee for filing a cross-complaint, amended cross-complaint or amendment to a cross-complaint in a ~~civil action or proceeding in the municipal court~~ *limited civil case* is forty-five dollars (\$45).

(c) A party shall not be required to pay the fee provided by this section for an amended complaint, amendment to a complaint, amended cross-complaint or amendment to a cross-complaint more than one time in any action.

(d) The fee provided by this section shall not apply to either of the following:

(1) An amended pleading or amendment to a pleading ordered by the court to be filed.

(2) An amended pleading or amendment to a pleading that only names previously fictitiously named defendants.

Comment. Section 72056.01 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 72056.1 (amended). Additional fee for judges' retirement fund

SEC. _____. Section 72056.1 of the Government Code is amended to read:

72056.1. A fee of two dollars (\$2) for the Judges' Retirement Fund shall be included within the total fees collected pursuant to Sections 72055 and 72056 in each ~~action in a municipal or justice court~~ *limited civil case*.

The funds shall be transmitted at the end of each month to the Controller for payment into the Judges' Retirement Fund.

Comment. Section 72056.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 72060 (amended). Fee in limited civil appeals

SEC. _____. Section 72060 of the Government Code is amended to read:

72060. The fee for a certificate and transmitting transcript and papers on appeal *in a limited civil case* is ten dollars (\$10). Notwithstanding Section 68085, six dollars (\$6) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

Comment. Section 72060 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 72190 (amended). Commissioners

SEC. _____. Section 72190 of the Government Code is amended to read:

72190. Within the jurisdiction of the court and under the direction of the judges, commissioners of municipal courts ~~or justice courts~~ shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and such additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners of municipal courts ~~or justice courts~~ shall possess the same qualifications the law requires of a judge and shall hold office during the pleasure of the court appointing them and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

Notwithstanding any other provision of law, a commissioner of a municipal court or a justice court of any judicial district in this state who has been duly appointed and has thereafter been retired for service, or a commissioner of a superior court in this state who has been duly appointed and has thereafter been retired from service, may be assigned by the presiding judge or sole judge of a municipal court ~~or a justice court~~ to serve as a court commissioner of the court for any periods of time as he or she is needed for the prompt and efficient discharge of the business of that court. While serving, he or she shall be paid the full compensation of a court commissioner, payable as follows: he or she shall continue to receive his or her retirement allowance, and in addition the county shall pay him or her the amount equal to the difference between the

retirement allowance and full compensation. That employment shall not operate to reinstate him or her as a member of the county retirement system or to terminate or suspend his or her retirement rights or allowance, and no deductions shall be made from his or her compensation as contributions to the retirement system.

Comment. Section 72190 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The reference in the first part of the second paragraph to retired justice court commissioners is retained because it may have continued significance despite the elimination of the justice court.

Gov't Code § 72190.1 (amended). Arraignments

SEC. _____. Section 72190.1 of the Government Code is amended to read:

72190.1. A commissioner of a municipal court ~~or a justice court~~ may conduct arraignment proceedings in the court if directed to perform those duties by the presiding or sole judge of the court, including the issuance and signing of bench warrants.

Comment. Section 72190.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72190.2 (amended). Bench warrants

SEC. _____. Section 72190.2 of the Government Code is amended to read:

72190.2. If directed to perform such duties by the presiding judge or sole judge of the court, a commissioner of the municipal court ~~or the justice court~~ may issue and sign a bench warrant for the arrest of a defendant who fails to appear in court when required to appear by law or who fails to perform any act required by court order.

Comment. Section 72190.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72193 (amended). City prosecutor

SEC. _____. Section 72193 of the Government Code is amended to read:

72193. Whenever the charter of any city ~~situated within a district for which a municipal court has been established~~ creates the office of city prosecutor, or provides that a deputy city attorney shall act as city prosecutor, and charges such prosecutor with the duty,

when authorized by law, of prosecuting misdemeanor offenses arising out of violations of state laws, ~~he~~ *the city prosecutor* may exercise the following powers:

(a) ~~He~~ *The city prosecutor* shall prosecute all such misdemeanors committed within the city ~~which are within the jurisdiction of the municipal court of the district in which such city is located~~, and handle all appeals arising from it. ~~He~~ *The city prosecutor* shall draw complaints for such misdemeanors, and shall prosecute all recognizances or bail bond forfeitures arising from or resulting from the commission of such offenses.

(b) Whenever any person applying for a writ of habeas corpus is held in custody by any peace officer of such city, charged with having committed within the city any ~~eriminal offense of which the municipal court of the district in which such city is located has jurisdiction~~ *misdemeanor*, a copy of the application for such writ shall be served upon such city prosecutor at the time and in the manner provided by law for the service of writs of habeas corpus upon district attorneys. On behalf of the people, the prosecutor shall conduct all proceedings relating to such application. If the constitutionality of any law is questioned in any such habeas corpus proceeding, the city prosecutor shall immediately notify the city attorney who may take charge of the proceedings on behalf of the people, or become associated with the city prosecutor in the proceedings.

Comment. Section 72193 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 72194.5 (amended). Electronic recording

SEC. _____. Section 72194.5 of the Government Code is amended to read:

72194.5. Whenever an official court reporter or a temporary court reporter is unavailable to report an action or proceeding in a ~~municipal or justice court~~, subject to the availability of approved equipment and equipment monitors, the ~~municipal or justice court~~ may order that *in a limited civil case or a misdemeanor or infraction case* the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the

court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. The court shall assign available reporters first to report preliminary hearings and then to other proceedings. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use.

Comment. Section 72194.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments, and Pen. Code § 691 (misdemeanor or infraction case). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72196 (amended). Pro tempore court reporters

SEC. _____. Section 72196 of the Government Code is amended to read:

72196. Whenever the business of the court requires, the presiding or sole judge of the municipal ~~or justice~~ court may request the services of one or more official reporters of the superior court within the same county to act as pro tempore phonographic reporter of the municipal court in criminal cases. Any such request shall be addressed to the presiding judge of the superior court. Such request shall be granted or denied in the manner and subject to the provisions set forth in Article 9 (commencing at Section 69941) of Chapter 5 of Title 8 of this code.

Comment. Section 72196 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72197 (amended). Duties of pro tempore court reporters

SEC. _____. Section 72197 of the Government Code is amended to read:

72197. Whenever such request has been granted and any official reporter of the superior court has been assigned to act as a pro tempore phonographic reporter of the municipal ~~or justice~~ court, such reporter shall, during the period of such assignment to the municipal ~~or justice~~ court, perform the duties of an official reporter

of such municipal ~~or justice~~ court and during the time of any such assignment such reporter shall be subject to the provisions of Sections 69942 to 69955, inclusive, and Sections 273 and 274c of the Code of Civil Procedure.

Comment. Section 72197 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72198 (amended). Compensation of court reporters

SEC. _____. Section 72198 of the Government Code is amended to read:

72198. In any county in which the official reporter of the superior court receives an annual salary fixed by law no additional compensation shall be paid to such reporter for any service rendered by ~~him~~ *the reporter* while assigned to the municipal ~~or justice~~ court; provided, however, that any official reporter of the superior court assigned to a municipal ~~or justice~~ court situated at a place other than the situs of the superior court in which said reporter regularly serves shall receive mileage from said superior court to the municipal ~~or justice~~ court to which ~~he~~ *the reporter* has been assigned, and return, for each day, or fraction thereof, during which said superior court reporter serves in the municipal ~~or justice~~ court; the rate for mileage so allowed shall be that fixed and paid to county employees generally.

Comment. Section 72198 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72301 (amended). Open for business at all hours for bail purposes

SEC. _____. Section 72301 of the Government Code is amended to read:

72301. The clerk of the ~~court~~ *municipal court or superior court in a county in which there is no municipal court* or one or more deputy clerks, the sheriff or one or more deputy sheriffs, or one or more city police officers shall be in attendance ~~at the department~~ at all hours of the day and night, including Sundays and holidays, and may fix and accept bail pursuant to procedures established by the court for the appearance before the court of any defendant charged in the court with an offense of which the court has jurisdiction or

whenever a defendant has been arrested and booked within the territorial limits of said judicial district for having committed a misdemeanor. The amount of bail shall be pursuant to a schedule of bail in such cases previously fixed and approved by the judges of the court at their annual meeting. If a warrant has been issued for the arrest of the defendant, the bail shall be in the amount fixed in the warrant. The bail shall be cash, negotiable United States Treasury bonds, or a surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code.

Comment. Section 72301 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 72302 (amended). Acceptance of bail

SEC. _____. Section 72302 of the Government Code is amended to read:

72302. If a defendant has been arrested for felony upon a warrant issued by a judge of such ~~municipal~~ court, the clerk may, under like conditions, accept bail in the amount fixed in the warrant.

Comment. Section 72302 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 72604 (amended). Official reporters

SEC. _____. Section 72604 of the Government Code is amended to read:

72604. Notwithstanding Article 9 (commencing with Section 69941) of Chapter 5, or any other provision of law in conflict with this section, in each municipal ~~or justice~~ court district in counties having a population of 2,000,000 inhabitants, or over, as determined by the 1970 federal census, except in municipal court districts where a statute provides otherwise, the official reporter and official reporters pro tempore in those districts governed by this section shall receive for their services the same per diem fee paid to official court reporters pro tempore of the Superior Court of Los Angeles County. All other fees of these reporters for transcription shall be as provided in Article 9 (commencing with Section 69941) of Chapter 5.

Comment. Section 72604 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72785 (repealed). Catalina justice court district

SEC. _____. Section 72785 of the Government Code is repealed.

~~72785. (a) Notwithstanding any other provision of this code, the judge of the Catalina Justice Court District may appoint a court administrator of a municipal court district in Los Angeles County to serve jointly as the court administrator/clerk of the Catalina Justice Court District. Any municipal court administrator so appointed shall serve at the pleasure of the judge and shall receive no additional compensation for that service.~~

~~(b) The court administrator/clerk appointed pursuant to subdivision (a) may appoint one deputy clerk, Catalina Justice Court, who shall receive the same salary and benefits as a person holding a municipal court classification of deputy clerk IV, M.C. Any person appointed to this position after January 1, 1992, shall serve at the pleasure of the court administrator/clerk and shall acquire no civil service status.~~

Comment. Section 72785 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 75101 (amended). Retirement fund

SEC. _____. Section 75101 of the Government Code is amended to read:

75101. The Controller shall at the end of each month ascertain the aggregate amount of the annual salaries of all positions established by law as justices of the Supreme Court and of the courts of appeal and judges of the superior courts, ~~municipal courts, and justice and municipal courts,~~ and out of the General Fund he or she shall transfer monthly into the Judges' Retirement Fund a sum equal to 8 percent of one-twelfth of the aggregate amount of those salaries.

Comment. Section 75101 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 75103 (amended). Retirement deductions

SEC. _____. Section 75103 of the Government Code is amended to read:

75103. Except as provided in Section 75103.3, the auditor of each county shall deduct 8 percent from the portion paid by a

county of the monthly salary of each judge of the superior court, ~~municipal court, and justice~~ *and municipal* court and cause this amount to be paid into the Judges' Retirement Fund.

Comment. Section 75103 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 75602 (amended). Retirement deductions (System II)

SEC. _____. Section 75602 of the Government Code is amended to read:

75602. Except as provided in Section 75605, the Controller or the auditor of each county shall deduct 8 percent from the portion paid by a county, or the Controller and the auditor, if appropriate, of the monthly salary of each judge of the superior court, ~~municipal court, and justice~~ *and municipal* court and cause this amount to be paid into the Judges' Retirement System II Fund.

Comment. Section 75602 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 77003 (amended). Court operations defined

SEC. _____. Section 77003 of the Government Code is amended to read:

77003. (a) As used in this chapter, "court operations" means all of the following:

(1) Salaries, benefits, and public agency retirement contributions for superior and municipal court judges and for subordinate judicial officers. For purposes of this paragraph, "subordinate judicial officers" include all commissioner or referee positions created prior to July 1, 1997, *including positions created in the municipal court prior to July 1, 1997, which thereafter become positions in the superior court as a result of unification of the municipal and superior courts in a county,* and including those commissioner positions created pursuant to Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794, 74841.5, and 74908; and includes any staff who provide direct support to commissioners; but does not include commissioners or staff who provide direct support to the commissioners whose positions were created after July 1, 1997, unless approved by the Judicial Council, subject to availability of funding.

(2) The salary, benefits, and public agency retirement contributions for other court staff including all municipal court staff positions specifically prescribed by statute.

(3) Those marshals, ~~constables~~, and sheriffs as the court deems necessary for court operations.

(4) Court-appointed counsel in juvenile court dependency proceedings and counsel appointed by the court to represent a minor pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8 of the Family Code.

(5) Services and supplies relating to court operations.

(6) Collective bargaining under the Meyers-Milias-Brown Act with respect to court employees specified in Section 3501.5.

(7) Actual indirect costs for county and city and county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services.

(b) However, “court operations” does not include collection enhancements as defined in Rule 810 of the California Rules of Court as it read on July 1, 1996.

Comment. Section 77003 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov’t Code § 77007 (amended). “Trial court” defined

SEC. _____. Section 77007 of the Government Code is amended to read:

77007. As used in this chapter, “trial court” means a superior court, ~~municipal court, or justice~~ *or municipal* court.

Comment. Section 77007 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

HARBORS AND NAVIGATION CODE

Harb. & Nav. Code § 664 (amended). Arrest procedures

SEC. _____. Section 664 of the Harbors and Navigation Code is amended to read:

664. (a) When any person is arrested for a violation of this chapter or any regulation adopted by the department pursuant to this chapter or any ordinance or local law relating to the operation and equipment of vessels, and such person is not immediately taken before a magistrate, the arresting officer shall prepare in duplicate a written notice to appear in court, containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court.

(b) The time specified in the notice to appear must be at least five (5) days after such arrest.

(c) The place specified in the notice to appear shall be either:

1. Before ~~a judge of a justice court or a municipal court judge~~, or *superior court judge in a county in which there is no municipal court*, within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and who is nearest and most accessible with reference to the place where the arrest is made; or

2. Upon demand of the person arrested, before ~~a judge of a justice court or a municipal court judge~~, or *superior court judge in a county in which there is no municipal court*, having jurisdiction of such offense at the county seat of the county in which such offense is alleged to have been committed; or before a judge in the judicial district in which the offense is alleged to have been committed.

3. Before an officer authorized by the county, city or city and county, to receive a deposit of bail.

4. Before ~~a judge of a justice court or a municipal court judge~~, or *superior court judge in a county in which there is no municipal court*, within 50 miles by the nearest road to the place of the alleged offense who has jurisdiction of the offense and whose judicial district contains any portion of the body of water upon which the offense charged is alleged to have been committed.

(d) The officer shall deliver one copy of the notice to appear to the arrested person and the arrested person in order to secure release must give ~~his~~ *a* written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice with the magistrate specified therein. Thereupon the magistrate shall fix the amount of bail which in ~~his~~ *the magistrate's* judgment, in accordance with the provisions of Section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant and shall indorse upon the notice a statement signed by ~~him~~ *the defendant* in the form set forth in Section 815a of the Penal Code. The defendant may, prior to the date upon which ~~he~~ *the defendant* promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in ~~his~~ *the magistrate's* discretion order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463 of the Penal Code.

(f) No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until ~~he~~ *the person* has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

Comment. Section 664 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Harb. & Nav. Code § 667 (amended). Place of trial

SEC. _____. Section 667 of the Harbors and Navigation Code is amended to read:

667. In addition to any other court which may be a proper place of trial, any ~~justice or~~ municipal court within 50 miles by the nearest road to the place of the alleged offense having jurisdiction of the offense, *or the superior court in a county in which there is no municipal court*, shall be a proper place of trial of any person on a charge of violation of this chapter or any regulation adopted by the department pursuant to this chapter or any ordinance or local law relating to the operation and equipment of vessels if the ~~justice or municipal court district~~ *judicial district* includes any portion of the body of water upon which the offense charged is alleged to have been committed.

Comment. Section 667 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

HEALTH AND SAFETY CODE

Health & Safety Code § 108580 (amended). Condemnation proceedings

SEC. _____. Section 108580 of the Health and Safety Code is amended to read:

108580. When a toy is alleged to be in violation of this article, the department or the local health officer shall commence proceedings in the superior court, or ~~lower~~ *municipal* court in whose jurisdiction the toy is located, for condemnation of the article.

Comment. Section 108580 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Health & Safety Code § 111880 (amended). Condemnation proceedings

SEC. _____. Section 111880 of the Health and Safety Code is amended to read:

111880. When a food, drug, device, or cosmetic is alleged to be adulterated, misbranded, falsely advertised, or the sale of which is otherwise in violation of this part, the department shall commence proceedings in the superior court or ~~lower~~ *municipal* court in whose jurisdiction the food, drug, device, or cosmetic is located, for condemnation of the article.

Comment. Section 111880 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Health & Safety Code § 111895 (amended). Condemnation or destruction

SEC. _____. Section 111895 of the Health and Safety Code is amended to read:

111895. Any superior or ~~lower~~ *municipal* court of this state may condemn any food, drug, device, or cosmetic under provisions of this part. In the absence of such an order, the food, drug, device, or cosmetic may be destroyed under the supervision of an authorized agent of the department who has the written consent of the owner, his or her attorney, or authorized representative.

Comment. Section 111895 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Health & Safety Code § 117070 (amended). Jurisdiction for prosecution of violations

SEC. _____. Section 117070 of the Health and Safety Code is amended to read:

117070. Any violation of any such rule or regulation lawfully made by the public agency is a misdemeanor. Any judge of a ~~justice~~ *municipal* court within any judicial district within which the reservoir lies in whole or in part, or any ~~municipal court within the district~~ *superior court in a county in which there is no municipal*

court, shall have jurisdiction of all prosecutions for violations of any rules and regulations adopted by the public agency.

Comment. Section 117070 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Health & Safety Code § 117120 (amended). Jurisdiction for prosecution of violations

SEC. _____. Section 117120 of the Health and Safety Code is amended to read:

117120. Any violation of any rule or regulation lawfully made by the governmental agency is a misdemeanor. Any judge of a justice *municipal* court within any judicial district within which the reservoir lies in whole or in part, or any ~~municipal court that may be established within the district~~ *superior court in a county in which there is no municipal court*, shall have jurisdiction of all prosecutions for violations of any such rules and regulations adopted by the governmental agency.

Comment. Section 117120 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

INSURANCE CODE

Ins. Code § 12961 (amended). Annual report of tort actions

SEC. _____. Section 12961 of the Insurance Code is amended to read:

12961. (a) The commissioner shall provide the Legislature with an annual report analyzing the following types of actions:

- (1) Medical malpractice actions.
- (2) Toxic substance tort actions.
- (3) Product and design liability actions.
- (4) Tort actions in which a public entity is a defendant.

(5) Tort actions involving judgments or settlements of one million dollars (\$1,000,000) or more.

(6) Class action tort actions.

(7) Defamation and invasion of privacy actions.

(8) Other categories of tort actions involving commercial liability claims as the commissioner deems necessary.

(b) The study may exclude actions in which the only defendant is an individual sued in his or her private capacity. The study may exclude actions filed in municipal court *limited civil cases*.

(c) If any of the information required to be provided by the parties is confidential under any other provision of law or pursuant to any court order, the commissioner shall keep that information confidential and shall limit its analysis of that information to aggregate data or other analyses which will not reveal the identity of the parties.

Comment. Section 12961 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

LABOR CODE

Lab. Code § 98 (amended). Investigations and hearings regarding employee complaints

SEC. _____. Section 98 of the Labor Code is amended to read:

98. (a) The Labor Commissioner shall have the authority to investigate employee complaints. The Labor Commissioner may provide for a hearing in any action to recover wages, penalties, and other demands for compensation properly before the division or the Labor Commissioner including orders of the Industrial Welfare Commission, and shall determine all matters arising under his or her jurisdiction. It shall be within the jurisdiction of the Labor Commissioner to accept and determine claims from holders of payroll checks or payroll drafts returned unpaid because of insufficient funds, if, after a diligent search, the holder is unable to

return the dishonored check or draft to the payee and recover the sums paid out. Within 30 days of filing of the complaint, the Labor Commissioner shall notify the parties as to whether a hearing will be held, or whether action will be taken in accordance with Section 98.3, or whether no further action will be taken on the complaint. If the determination is made by the Labor Commissioner to hold a hearing, the hearing shall be held within 90 days of the date of that determination. However, the Labor Commissioner may postpone or grant additional time before setting a hearing if the Labor Commissioner finds that it would lead to an equitable and just resolution of the dispute.

It is the intent of the Legislature that hearings held pursuant to this section be conducted in an informal setting preserving the right of the parties.

(b) When a hearing is set, a copy of the complaint, which shall include the amount of compensation requested, together with a notice of time and place of the hearing, shall be served on all parties, personally or by certified mail.

(c) Within 10 days after service of the notice and the complaint, a defendant may file an answer with the Labor Commissioner in any form as the Labor Commissioner may prescribe, setting forth the particulars in which the complaint is inaccurate or incomplete and the facts upon which the defendant intends to rely.

(d) No pleading other than the complaint and answer of the defendant or defendants shall be required. Both shall be in writing and shall conform to the form and the rules of practice and procedure adopted by the Labor Commissioner.

(e) Evidence on matters not pleaded in the answer shall be allowed only on terms and conditions the Labor Commissioner shall impose. In all these cases, the claimant shall be entitled to a continuance for purposes of review of the new evidence.

(f) If the defendant fails to appear or answer within the time allowed under this chapter, no default shall be taken against him or her, but the Labor Commissioner shall hear the evidence offered and shall issue an order, decision, or award in accordance with the evidence. A defendant failing to appear or answer, or subsequently contending to be aggrieved in any manner by want of notice of the

pendency of the proceedings, may apply to the Labor Commissioner for relief in accordance with Section 473 of the Code of Civil Procedure. The Labor Commissioner may afford this relief. No right to relief, including the claim that the findings or award of the Labor Commissioner or judgment entered thereon are void upon their face, shall accrue to the defendant in any court unless prior application is made to the Labor Commissioner in accordance with this chapter.

(g) All hearings conducted pursuant to this chapter are governed by the division and by the rules of practice and procedure adopted by the Labor Commissioner.

(h) Whenever a claim is filed under this chapter against a person operating or doing business under a fictitious business name, as defined in Section 17900 of the Business and Professions Code, which relates to the person's business, the division shall inquire at the time of the hearing whether the name of the person is the legal name under which the business or person has been licensed, registered, incorporated, or otherwise authorized to do business.

The division may amend an order, decision, or award to conform to the legal name of the business or the person who is the defendant to a wage claim, provided it can be shown that proper service was made on the defendant or his or her agent, unless a judgment had been entered on the order, decision, or award pursuant to subdivision (d) of Section 98.2. The Labor Commissioner may apply to the clerk of the justice, ~~municipal~~, *municipal* or superior court to amend a judgment that has been issued pursuant to a final order, decision, or award to conform to the legal name of the defendant, provided it can be shown that proper service was made on the defendant or his or her agent.

Comment. Section 98 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Lab. Code § 98.2 (amended). Review and enforcement of decision

SEC. _____. Section 98.2 of the Labor Code is amended to read:

98.2. (a) Within 10 days after service of notice of an order, decision, or award the parties may seek review by filing an appeal to the justice, ~~municipal~~, *municipal* or superior court, in

accordance with the appropriate rules of jurisdiction, where the appeal shall be heard de novo. A copy of the appeal request shall be served upon the Labor Commissioner by the appellant. For purposes of computing the 10-day period after service, Section 1013 of the Code of Civil Procedure shall be applicable.

(b) If the party seeking review by filing an appeal to the justice, ~~municipal~~, *municipal* or superior court is unsuccessful in the appeal, the court shall determine the costs and reasonable attorneys' fees incurred by the other parties to the appeal, and assess that amount as a cost upon the party filing the appeal.

(c) If no notice of appeal of the order, decision, or award is filed within the period set forth in subdivision (a), the order, decision, or award shall, in the absence of fraud, be deemed the final order.

(d) The Labor Commissioner shall file, within 10 days of the order becoming final pursuant to subdivision (c), a certified copy of the final order with the clerk of the justice, ~~municipal~~, *municipal* or superior court, in accordance with the appropriate rules of jurisdiction, of the appropriate county unless a settlement has been reached by the parties and approved by the Labor Commissioner. Judgment shall be entered immediately by the court clerk in conformity therewith. The judgment so entered shall have the same force and effect as, and shall be subject to all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered. Enforcement of the judgment shall receive court priority.

(e) In order to ensure judgments are satisfied, the Labor Commissioner may serve upon the judgment debtor personally or by first-class mail at the last known address of the judgment debtor listed with the division, a form similar to, and requiring the reporting of the same information as, the form approved or adopted by the Judicial Council for purposes of subdivision (b) of Section 117.19 of the Code of Civil Procedure to assist in identifying the nature and location of any assets of the judgment debtor.

The judgment debtor shall complete the form and cause it to be delivered to the division at the address listed on the form within 35 days after the form has been served on the judgment debtor, unless

the judgment has been satisfied. In case of willful failure by the judgment debtor to comply with this subdivision, the division or the judgment creditor may request the court to apply the sanctions provided in Section 708.170 of the Code of Civil Procedure.

(f) Notwithstanding subdivision (d), the Labor Commissioner may stay execution of any judgment entered upon an order, decision, or award which has become final upon good cause appearing therefore and may impose the terms and conditions of the stay of execution. A certified copy of the stay of execution shall be filed with the clerk entering the judgment.

(g) When a judgment is satisfied in fact, otherwise than by execution, the Labor Commissioner may, upon the motion of either party or on its own motion, order entry of satisfaction of judgment. The clerk of the court shall enter a satisfaction of judgment upon the filing of a certified copy of the order.

(h) The Labor Commissioner shall make every reasonable effort to ensure that judgments are satisfied, including taking all appropriate legal action and requiring the employer to deposit a bond as provided in Section 240.

(i) The judgment creditor, or the Labor Commissioner as assignee of the judgment creditor, shall be entitled to court costs and reasonable attorney fees for enforcing the judgment which is rendered pursuant to this section.

Comment. Section 98.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Lab. Code § 3352 (amended). Persons not “employees”

SEC. _____. Section 3352 of the Labor Code is amended to read:
3352. “Employee” excludes the following:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his or her parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk, *or* deputy sheriff, ~~or deputy constable~~ appointed for his or her own convenience, and who receives no compensation from the county

or municipal corporation or from the citizens thereof for his or her services as the deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him or her for injury occurring in the course of and arising out of the employment.

(d) Any person performing voluntary services at or for a recreational camp, hut, or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101(6) of the Internal Revenue Code, of which he or she or a member of his or her family is a member and who receives no compensation for those services other than meals, lodging, or transportation.

(e) Any person performing voluntary service as a ski patrolman who receives no compensation for those services other than meals or lodging or the use of ski tow or ski lift facilities.

(f) Any person employed by a ski lift operator to work at a snow ski area who is relieved of and not performing any prescribed duties, while participating in recreational activities on his or her own initiative.

(g) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for the participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, or other expenses incidental thereto.

(h) Any person defined in subdivision (d) of Section 3351 who was employed by the employer to be held liable for less than 52 hours during the 90 calendar days immediately preceding the date of the injury for injuries, as defined in Section 5411, or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of the disease or injury for injuries, as defined in Section 5412, or who earned less than one hundred dollars (\$100) in wages from the employer during the 90 calendar days immediately preceding the date of the injury for injuries, as defined in Section 5411, or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the

employee to the hazards of the disease or injury for injuries, as defined in Section 5412.

(i) Any person performing voluntary service for a public agency or a private, nonprofit organization who receives no remuneration for the services other than meals, transportation, lodging, or reimbursement for incidental expenses.

(j) Any person, other than a regular employee, performing officiating services relating to amateur sporting events sponsored by any public agency or private, nonprofit organization, who receives no remuneration for these services other than a stipend for each day of service no greater than the amount established by the Department of Personnel Administration as a per diem expense for employees or officers of the state. The stipend shall be presumed to cover incidental expenses involved in officiating, including, but not limited to, meals, transportation, lodging, rule books and courses, uniforms, and appropriate equipment.

(k) Any student participating as an athlete in amateur sporting events sponsored by any public agency, public or private nonprofit college, university or school, who receives no remuneration for the participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, scholarships, grants-in-aid, or other expenses incidental thereto.

(l) Any law enforcement officer who is regularly employed by a local or state law enforcement agency in an adjoining state and who is deputized to work under the supervision of a California peace officer pursuant to paragraph (4) of subdivision (a) of Section 832.6 of the Penal Code.

(m) Any law enforcement officer who is regularly employed by the Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, or the Arizona Department of Public Safety and who is acting as a peace officer in this state pursuant to subdivision (a) of Section 830.32 of the Penal Code.

(n) Any person, other than a regular employee, performing services as a sports official for an entity sponsoring an intercollegiate or interscholastic sports event, or any person performing services as a sports official for a public agency, public entity, or a private nonprofit organization, which public agency,

public entity, or private nonprofit organization sponsors an amateur sports event. For purposes of this subdivision, “sports official” includes an umpire, referee, judge, scorekeeper, timekeeper, or other person who is a neutral participant in a sports event.

Comment. Section 3352 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Lab. Code § 5710 (amended). Depositions

SEC. _____. Section 5710 of the Labor Code is amended to read:

5710. (a) The appeals board, a workers’ compensation judge, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*. To that end the attendance of witnesses and the production of records may be required. Depositions may be taken outside the state before any officer authorized to administer oaths. The appeals board or a workers’ compensation judge in any proceeding before the appeals board may cause evidence to be taken in other jurisdictions before the agency authorized to hear workers’ compensation matters in those other jurisdictions.

(b) Where the employer or insurance carrier requests a deposition to be taken of an injured employee, or any person claiming benefits as a dependent of an injured employee, the deponent is entitled to receive in addition to all other benefits:

(1) All reasonable expenses of transportation, meals, and lodging incident to the deposition.

(2) Reimbursement for any loss of wages incurred during attendance at the deposition.

(3) A copy of the transcript of the deposition, without cost.

(4) A reasonable allowance for attorney’s fees for the deponent, if represented by an attorney licensed by the state bar of this state. The fee shall be discretionary with, and, if allowed, shall be set by, the appeals board, but shall be paid by the employer or his or her insurer.

(5) A reasonable allowance for interpreter's fees for the deponent, if interpretation services are needed and provided by a language interpreter certified or deemed certified pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or 68566 of, the Government Code. The fee shall be in accordance with the fee schedule set by the administrative director and paid by the employer or his or her insurer. Payment for interpreter's services shall be allowed for deposition of a non-English-speaking injured worker, and for any other deposition-related events as permitted by the administrative director.

Comment. Section 5710 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Lab. Code § 6613 (amended). Depositions

SEC. _____. Section 6613 of the Labor Code is amended to read:

6613. The appeals board, a hearing officer, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*. To that end the attendance of witnesses and the production of records may be required. Depositions may be taken outside the state before any officer authorized to administer oaths. The appeals board or a hearing officer in any proceeding before the appeals board may cause evidence to be taken in other jurisdictions before the agency authorized to hear similar matters in such other jurisdictions.

Comment. Section 6613 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

MILITARY AND VETERANS CODE

Mil. & Vet. Code § 467 (amended). Collection and disposition of fines and penalties

SEC. _____. Section 467 of the Military and Veterans Code is amended to read:

467. For the purpose of collecting fines or penalties imposed by a court-martial, the president of any general or special court-martial and the summary court officer of any summary court shall make a list of all fines and penalties and of the persons against whom they have been imposed, and may thereafter issue a warrant under his or her hand directed to any sheriff or marshal of the county, commanding him or her to levy and collect the fines and penalties, together with the costs, upon and out of the property of the person against whom the fine or penalty is imposed. The warrant shall be executed and renewed in the same manner as executions ~~from the justices' courts~~ *under the Code of Civil Procedure*.

All fines collected under this section or imposed and collected under Section 450.1 shall be paid by the officer collecting them to the commanding officer of the organization of which the person fined is or was a member and shall be deposited by the commanding officer into the General Fund.

Comment. Section 467 is amended to reflect elimination of the justices' court. Cal. Const. art. VI, §§ 1, 5.

PENAL CODE

Penal Code § 97 (repealed). Purchase of judgment

SEC. _____. Section 97 of the Penal Code is repealed.

~~97. Every judge of a justice court who purchases or is interested in the purchase of any judgment or part thereof on the docket of, or on any docket in possession of that judge, is guilty of a misdemeanor.~~

Comment. Section 97 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 190.9 (amended). Record in death penalty cases

SEC. _____. Section 190.9 of the Penal Code is amended to read:

190.9. (a)(1) In any case in which a death sentence may be imposed, all proceedings conducted in the municipal and superior courts, including all conferences and proceedings, whether in open court, in conference in the courtroom, or in chambers, shall be

conducted on the record with a court reporter present. ~~In superior court, the~~ *The* court reporter shall prepare and certify a daily transcript of these proceedings. ~~In municipal court, the proceedings, other than the preliminary hearing for which daily transcripts shall be prepared, all proceedings commencing with the preliminary hearing. Proceedings prior to the preliminary hearing shall be reported but need not be transcribed until the municipal or superior court receives notice as prescribed in paragraph (2) of subdivision (a).~~

(2) Upon receiving notification from the prosecution that the death penalty is being sought, the superior court shall notify the ~~municipal court in which the preliminary hearing took place~~. Upon this notification, the ~~municipal court in which the preliminary hearing took place~~ shall order the transcription and preparation of the record of all proceedings ~~in the municipal court prior to and including the preliminary hearing~~ in the manner prescribed by the Judicial Council in the rules of court. The record of all proceedings ~~in municipal court prior to and including the preliminary hearing~~ shall be certified by the ~~municipal court to the superior court~~ no later than 120 days following notification by the superior court unless the superior court grants an extension of time pursuant to rules of court adopted by the Judicial Council. Upon certification, the ~~municipal court in which the preliminary hearing took place~~ shall forward the record to the superior court for incorporation into the superior court record.

(b) Any computer-readable transcript produced by court reporters pursuant to this section shall conform to the requirements of subdivision (c) of Section 269 of the Code of Civil Procedure.

Comment. Section 190.9 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section provides special procedures for certifying transcripts in death penalty cases. The policy is to ensure that all preliminary proceedings have been reported and transcribed before a capital trial commences, whether the preliminary proceedings are conducted in municipal court or in superior court.

Penal Code § 682 (amended). Prosecution by indictment or information

SEC. _____. Section 682 of the Penal Code is amended to read:

682. Every public offense must be prosecuted by indictment or information, except:

1. Where proceedings are had for the removal of civil officers of the State;

2. Offenses arising in the militia when in actual service, and in the land and naval forces in the time of war, or which the State may keep, with the consent of Congress, in time of peace;

3. ~~Offenses tried in municipal and justice courts~~ *Misdemeanors and infractions*;

4. ~~All misdemeanors of which jurisdiction has been conferred upon superior courts sitting as juvenile courts~~;

5. A felony to which the defendant has pleaded guilty to the complaint before a magistrate, where permitted by law.

Comment. Section 682 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). All misdemeanors and infractions must be prosecuted by complaint. See Section 740.

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See Welf. & Inst. Code §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 691 (amended). Definitions

SEC. _____. Section 691 of the Penal Code is amended to read:

691. The following words have in Part 2 (commencing with Section 681) the signification attached to them in this section, unless it is otherwise apparent from the context:

(a) ~~The words “inferior court” or “inferior courts” include municipal courts and justices’ courts.~~

(b) The words “competent court” when used with reference to the jurisdiction over any public offense, mean any court the subject matter jurisdiction of which includes the offense so mentioned.

(c) ~~(b)~~ The words “jurisdictional territory” when used with reference to a court, mean the city and county, county, city, township, or other limited territory over which the criminal jurisdiction of the court extends, as provided by law, and in case of a superior court mean the county in which the court sits.

(d) (c) The words “accusatory pleading” include an indictment, an information, an accusation, *and* a complaint filed ~~with a magistrate charging a public offense of which the superior court has original trial jurisdiction, and a complaint filed with an inferior court charging a public offense of which the inferior court has original trial jurisdiction.~~

(e) (d) The words “prosecuting attorney” include any attorney, whether designated as district attorney, city attorney, city prosecutor, prosecuting attorney, or by any other title, having by law the right or duty to prosecute, in behalf of the people, any charge of a public offense.

(f) (e) The word “county” includes county, city and county, and city.

(f) “*Felony case*” means a criminal action in which a felony is charged and includes a criminal action in which a misdemeanor or infraction is charged in conjunction with a felony.

(g) “*Misdemeanor or infraction case*” means a criminal action in which a misdemeanor or infraction is charged but excludes a criminal action in which a felony is charged in conjunction with a misdemeanor or infraction.

Comment. Section 691 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The revision of this and other statutes to accommodate unification of the municipal and superior courts in a county is intended generally to preserve existing procedures for criminal cases by replacing references to superior court criminal cases with references to felony cases, and by replacing references to municipal court criminal cases with references to misdemeanor and felony cases.

The phrase “inferior court” is eliminated to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). It is replaced throughout the code with a reference to the municipal court or, in a county in which there is no municipal court, the superior court. In the case of a reference to a public offense triable in an inferior court, it is replaced with a reference to a misdemeanor or infraction.

Subdivision (c) is revised to delete the specification of courts in which a complaint is filed. For definitional purposes, it is sufficient to identify a “complaint” as a type of accusatory pleading.

Subdivisions (f) and (g) are added for drafting convenience. A criminal action that includes a felony charge is treated as a felony case notwithstanding the joinder of misdemeanor or infraction charges.

Penal Code § 726 (amended). Unlawful or riotous assembly

SEC. _____. Section 726 of the Penal Code is amended to read:

726. Where any number of persons, whether armed or not, are unlawfully or riotously assembled, the sheriff of the county and his or her deputies, the officials governing the town or city, ~~or the judges of the justice courts~~, or any of them, must go among the persons assembled, or as near to them as possible, and command them, in the name of the people of the state, immediately to disperse.

Comment. Section 726 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 737 (amended). Felonies prosecuted by indictment or information

SEC. _____. Section 737 of the Penal Code is amended to read:

737. All ~~public offenses triable in the superior court felonies~~ shall be prosecuted therein by indictment or information, except as provided in the Government Code, the Juvenile Court Law under Chapter 2 (commencing with Section 200) of Division 2 of the Welfare and Institutions Code, and Section 859a. *A proceeding pursuant to Section 3060 of the Government Code shall be prosecuted by accusation.*

Comment. Section 737 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Willful or corrupt misconduct in office by a local public official is punishable by removal from office under Government Code Section 3060 *et seq.* It is an offense triable in the superior court and is prosecuted by accusation. A trial under Government Code Section 3060 is conducted in all respects in the same manner as the trial of an indictment. Gov't Code § 3070. Appeal is to the court of appeal. Gov't Code § 3075.

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See Welf. & Inst. Code §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 740 (amended). Misdemeanors and infractions

SEC. _____. Section 740 of the Penal Code is amended to read:

740. Except as otherwise provided by law, all ~~public offenses triable in the inferior courts~~ *misdemeanors and infractions* must be prosecuted by written complaint under oath subscribed by the

complainant. Such complaint may be verified on information and belief.

Comment. Section 740 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 804 (amended). Commencement of prosecution

SEC. _____. Section 804 of the Penal Code is amended to read:

804. For the purpose of this chapter, prosecution for an offense is commenced when any of the following occurs:

- (a) An indictment or information is filed.
- (b) A complaint is filed ~~with an inferior court charging a public offense of which the inferior court has original trial jurisdiction charging a misdemeanor or infraction.~~
- (c) A case is certified to the superior court.
- (d) An arrest warrant or bench warrant is issued, provided the warrant names or describes the defendant with the same degree of particularity required for an indictment, information, or complaint.

Comment. Section 804 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 806 (amended). Written complaint

SEC. _____. Section 806 of the Penal Code is amended to read:

806. A proceeding for the examination before a magistrate of a person on a charge of ~~an offense originally triable in a superior court~~ *a felony* must be commenced by written complaint under oath subscribed by the complainant and filed with the magistrate. Such complaint may be verified on information and belief. When the complaint is used as a pleading to which the defendant pleads guilty under Section 859a of this code, the complaint shall contain the same allegations, including the charge of prior conviction or convictions of crime, as are required for indictments and informations and, wherever applicable, shall be construed and shall have substantially the same effect as provided in this code for indictments and informations.

Comment. Section 806 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 808 (amended). Magistrates

SEC. _____. Section 808 of the Penal Code is amended to read:

808. The following persons are magistrates:

1. The judges of the Supreme Court.
2. The judges of the courts of appeal.
3. The judges of the superior courts.
4. The judges of the municipal courts.
5. ~~The judges of the justice courts.~~

Comment. Section 808 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 810 (amended). Magistrate on call

SEC. _____. Section 810 of the Penal Code is amended to read:

810. (a) The presiding judge of the superior court, *and* the presiding judge of each municipal court in a county, ~~and the judge of each justice court in a county,~~ shall, as often as is necessary, ~~meet and~~ designate on a schedule not less than one judge of the superior court, ~~municipal court or justice or municipal~~ court to be reasonably available on call as a magistrate for the setting of orders for discharge from actual custody upon bail, the issuance of search warrants, and for such other matters as may by the magistrate be deemed appropriate, at all times when a court is not in session in the county.

(b) The officer in charge of a jail, or a person ~~he~~ *the officer* designates, in which an arrested person is held in custody shall assist the arrested person or ~~his~~ *the arrested person's* attorney in contacting the magistrate on call as soon as possible for the purpose of obtaining release on bail.

(c) Any telephone call made pursuant to this section by an arrested person while in custody or by such person's attorney shall not count or be considered as a telephone call for purposes of Section 851.5 of the Penal Code.

Comment. Section 810 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 813 (amended). Arrest warrant or summons

SEC. _____. Section 813 of the Penal Code is amended to read:

813. (a) When a complaint is filed with a magistrate charging a ~~public offense~~ *felony* originally triable in the superior court of the county in which he or she sits, if, and only if, the magistrate is satisfied from the complaint that the offense complained of has been committed and that there is reasonable ground to believe that the defendant has committed it, the magistrate shall issue a warrant for the arrest of the defendant, except that, upon the request of the prosecutor, a summons instead of an arrest warrant shall be issued.

(b) A summons issued pursuant to this section shall be in substantially the same form as an arrest warrant and shall contain all of the following:

(1) The name of the defendant.

(2) The date and time the summons was issued.

(3) The city or county where the summons was issued.

(4) The signature of the magistrate, judge, justice, or other issuing authority who is issuing the summons with the title of his or her office and the name of the court or other issuing agency.

(5) The offense or offenses with which the defendant is charged.

(6) The time and place at which the defendant is to appear.

(7) Notification that the defendant is to complete the booking process on or before his or her first court appearance, as well as instructions for the defendant on completing the booking process.

(8) A provision for certification by the booking agency that the defendant has completed the booking process which shall be presented to the court by the defendant as proof of booking.

(c) If a defendant has been properly served with a summons and thereafter fails to appear at the designated time and place, a bench warrant for arrest shall issue. In the absence of proof of actual receipt of the summons by the defendant, a failure to appear shall not be used in any future proceeding.

(d) A defendant who responds to a summons issued pursuant to this section and who has not been booked as provided in subdivision (b) shall be ordered by the court to complete the booking process.

(e) The prosecutor shall not request the issuance of a summons in lieu of an arrest warrant as provided in this section under any of the following circumstances:

- (1) The offense charged involves violence.
- (2) The offense charged involves a firearm.
- (3) The offense charged involves resisting arrest.
- (4) There are one or more outstanding arrest warrants for the person.
- (5) The prosecution of the offense or offenses with which the person is charged, or the prosecution of any other offense or offenses would be jeopardized.
- (6) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered.
- (7) There is reason to believe that the person would not appear at the time and place specified in the summons.

Comment. Section 813 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The magistrate may issue a warrant based on a complaint alleging a felony.

Penal Code § 827 (amended). Felony triable in another county

SEC. _____. Section 827 of the Penal Code is amended to read:

827. When a complaint is filed with a magistrate of the commission of a ~~public offense~~ *felony* originally triable in the superior court of another county of the State than that in which ~~he~~ *the magistrate* sits, but showing that the defendant is in the county where the complaint is filed, the same proceedings must be had as prescribed in this chapter, except that the warrant must require the defendant to be taken before the nearest or most accessible magistrate of the county in which the offense is triable, and the complaint must be delivered by the magistrate to the officer to whom the warrant is delivered.

Comment. Section 827 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). A magistrate may issue a warrant based on a complaint alleging a felony.

Penal Code § 829 (amended). Misdemeanor or infraction triable in another county

SEC. _____. Section 829 of the Penal Code is amended to read:

829. When a complaint is filed with a magistrate of the commission of a ~~public offense~~ *misdemeanor or infraction* triable

in ~~an inferior court of~~ another county of the State than that in which ~~he~~ *the magistrate* sits, but showing that the defendant is in the county where the complaint is filed, the officer must, upon being required by the defendant, take ~~him~~ *the defendant* before a magistrate of the county in which the warrant was issued, who must admit the defendant to bail in the amount specified in the endorsement referred to in Section 815a, and immediately transmit the warrant, complaint, and undertaking, to the clerk of the court in which the defendant is required to appear.

Comment. Section 829 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Cf. Section 691 & Comment.

Penal Code § 830.1 (amended). Peace officers

SEC. _____. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police, employed in that capacity, of a city, any police officer, employed in that capacity and appointed by the chief of police or the chief executive of the agency, of a city, any chief of police, or police officer of a district (including police officers of the San Diego Unified Port District Harbor Police) authorized by statute to maintain a police department, any marshal or deputy marshal of a municipal court, ~~any constable or deputy constable, employed in that capacity, of a judicial district,~~ any port warden or special officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is a peace officer. The authority of these peace officers extends to any place in the state, as follows:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs the peace officer.

(2) Where the peace officer has the prior consent of the chief of police, or person authorized by him or her to give consent, if the place is within a city or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's

presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(b) Special agents and Attorney General investigators of the Department of Justice are peace officers, and those assistant chiefs, deputy chiefs, chiefs, deputy directors, and division directors designated as peace officers by the Attorney General are peace officers. The authority of these peace officers extends to any place in the state where a public offense has been committed or where there is probable cause to believe one has been committed.

(c) Any deputy sheriff of a county of the first class who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state-of-emergency.

Comment. Section 830.1 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 832.4 (amended). Peace officer standards and training

SEC. _____. Section 832.4 of the Penal Code is amended to read:

832.4. (a) Any undersheriff or deputy sheriff of a county, any police officer of a city, and any police officer of a district authorized by statute to maintain a police department, who is first employed after January 1, 1974, and is responsible for the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall obtain the basic certificate issued by the Commission on Peace Officer Standards and Training within 18 months of his or her employment in order to continue to exercise the powers of a peace officer after the expiration of the 18-month period.

(b) Every peace officer listed in subdivision (a) of Section 830.1, except a sheriff, ~~elected constable~~, or elected marshal, or a deputy sheriff described in subdivision (c) of Section 830.1, who is employed after January 1, 1988, shall obtain the basic certificate issued by the Commission on Peace Officer Standards and Training upon completion of probation, but in no case later than 24 months after his or her employment, in order to continue to exercise the powers of a peace officer after the expiration of the 24-month period.

Deputy sheriffs described in subdivision (c) of Section 830.1 shall obtain the basic certificate issued by the Commission on Peace Officer Standards and Training within 24 months after being reassigned from custodial duties to general law enforcement duties.

In those cases where the probationary period established by the employing agency is 24 months, the peace officers described in this subdivision may continue to exercise the powers of a peace officer for an additional three-month period to allow for the processing of the certification application.

Comment. Section 832.4 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 851.8 (amended). Sealing arrest records

SEC. _____. Section 851.8 of the Penal Code is amended to read:

851.8. (a) In any case where a person has been arrested and no accusatory pleading has been filed, the person arrested may petition the law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. A copy of such petition shall be served upon the district attorney of the county having jurisdiction over the offense. The law enforcement agency having jurisdiction over the offense, upon a determination that the person arrested is factually innocent, shall, with the concurrence of the district attorney, seal its arrest records, and the petition for relief under this section for three years from the date of the arrest and thereafter destroy its arrest records and the petition. The law enforcement agency having jurisdiction over the offense shall notify the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the

petitioner for an offense for which the petitioner has been found factually innocent under this subdivision, of the sealing of the arrest records and the reason therefor. The Department of Justice and any law enforcement agency so notified shall forthwith seal their records of the arrest and the notice of sealing for three years from the date of the arrest, and thereafter destroy their records of the arrest and the notice of sealing. The law enforcement agency having jurisdiction over the offense and the Department of Justice shall request the destruction of any records of the arrest which they have given to any local, state, or federal agency or to any other person or entity. Each such agency, person, or entity within the State of California receiving such a request shall destroy its records of the arrest and such request, unless otherwise provided in this section.

(b) If, after receipt by both the law enforcement agency and the district attorney of a petition for relief under subdivision (a), the law enforcement agency and district attorney do not respond to the petition by accepting or denying such petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the petition shall be deemed to be denied. In any case where the petition of an arrestee to the law enforcement agency to have an arrest record destroyed is denied, petition may be made to the municipal ~~or justice court~~ *or the superior court in a county in which there is no municipal court* which would have had territorial jurisdiction over the matter. A copy of such petition shall be served on the district attorney of the county having jurisdiction over the offense at least 10 days prior to the hearing thereon. The district attorney may present evidence to the court at such hearing. Notwithstanding Section 1538.5 or 1539, any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is material, relevant and reliable. A finding of factual innocence and an order for the sealing and destruction of records pursuant to this section shall not be made unless the court finds that no reasonable cause exists to believe that the arrestee

committed the offense for which the arrest was made. In any court hearing to determine the factual innocence of a party, the initial burden of proof shall rest with the petitioner to show that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. If the court finds that this showing of no reasonable cause has been made by the petitioner, then the burden of proof shall shift to the respondent to show that a reasonable cause exists to believe that the petitioner committed the offense for which the arrest was made. If the court finds the arrestee to be factually innocent of the charges for which the arrest was made, then the court shall order the law enforcement agency having jurisdiction over the offense, the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this section to seal their records of the arrest and the court order to seal and destroy such records, for three years from the date of the arrest and thereafter to destroy their records of the arrest and the court order to seal and destroy such records. The court shall also order the law enforcement agency having jurisdiction over the offense and the Department of Justice to request the destruction of any records of the arrest which they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving such a request shall destroy its records of the arrest and the request to destroy such records, unless otherwise provided in this section. The court shall give to the petitioner a copy of any court order concerning the destruction of the arrest records.

(c) In any case where a person has been arrested, and an accusatory pleading has been filed, but where no conviction has occurred, the defendant may, at any time after dismissal of the action, petition the court which dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made. A copy of such petition shall be served on the district attorney of the county in which the accusatory pleading was filed at least 10 days prior to the hearing on the petitioner's factual innocence. The district attorney may present evidence to

the court at such hearing. Such hearing shall be conducted as provided in subdivision (b). If the court finds the petitioner to be factually innocent of the charges for which the arrest was made, then the court shall grant the relief as provided in subdivision (b).

(d) In any case where a person has been arrested and an accusatory pleading has been filed, but where no conviction has occurred, the court may, with the concurrence of the district attorney, grant the relief provided in subdivision (b) at the time of the dismissal of the accusatory pleading.

(e) Whenever any person is acquitted of a charge and it appears to the judge presiding at the trial wherein such acquittal occurred that the defendant was factually innocent of such charge, the judge may grant the relief provided in subdivision (b).

(f) In any case where a person who has been arrested is granted relief pursuant to subdivision (a) or (b), the law enforcement agency having jurisdiction over the offense or court shall issue a written declaration to the arrestee stating that it is the determination of the law enforcement agency having jurisdiction over the offense or court that the arrestee is factually innocent of the charges for which *he the person* was arrested and that the arrestee is thereby exonerated. Thereafter, the arrest shall be deemed not to have occurred and the person may answer accordingly any question relating to its occurrence.

(g) The Department of Justice shall furnish forms to be utilized by persons applying for the destruction of their arrest records and for the written declaration that one person was found factually innocent under subdivisions (a) and (b).

(h) Documentation of arrest records destroyed pursuant to subdivision (a), (b), (c), (d), or (e) which are contained in investigative police reports shall bear the notation "Exonerated" whenever reference is made to the arrestee. The arrestee shall be notified in writing by the law enforcement agency having jurisdiction over the offense of the sealing and destruction of the arrest records pursuant to this section.

(i) Any finding that an arrestee is factually innocent pursuant to subdivision (a), (b), (c), (d), or (e) shall not be admissible as evidence in any action.

(j) Destruction of records of arrest pursuant to subdivision (a), (b), (c), (d), or (e) shall be accomplished by permanent obliteration of all entries or notations upon such records pertaining to the arrest, and the record shall be prepared again so that it appears that the arrest never occurred. However, where (1) the only entries on the record pertain to the arrest and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(k) No records shall be destroyed pursuant to subdivision (a), (b), (c), (d), or (e) if the arrestee or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of such records has received a certified copy of the complaint in such civil action, until the civil action has been resolved. Any records sealed pursuant to this section by the court in the civil actions, upon a showing of good cause, may be opened and submitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties and any other person authorized by the court. Immediately following the final resolution of the civil action, records subject to subdivision (a), (b), (c), (d), or (e) shall be sealed and destroyed pursuant to subdivision (a), (b), (c), (d), or (e).

(l) For arrests occurring on or after January 1, 1981, and for accusatory pleadings filed on or after January 1, 1981, petitions for relief under this section may be filed up to two years from the date of the arrest or filing of the accusatory pleading, whichever is later. Until January 1, 1983, petitioners can file for relief under this section for arrests which occurred or accusatory pleadings which were filed up to five years prior to the effective date of the statute. Any time restrictions on filing for relief under this section may be waived upon a showing of good cause by the petitioner and in the absence of prejudice.

(m) Any relief which is available to a petitioner under this section for an arrest shall also be available for an arrest which has been deemed to be or described as a detention under Section 849.5 or 851.6.

(n) The provisions of this section shall not apply to any offense which is classified as an infraction.

(o)(1) The provisions of this section shall be repealed on the effective date of a final judgment based on a claim under the California or United States Constitution holding that evidence which is relevant, reliable, and material may not be considered for purposes of a judicial determination of factual innocence under this section. For purposes of this subdivision, a judgment by the appellate ~~department~~ *division* of a superior court is a final judgment if it is published and if it is not reviewed on appeal by a ~~district~~ court of appeal. A judgment of a ~~district~~ court of appeal is a final judgment if it is published and if it is not reviewed by the California Supreme Court.

(2) Any such decision referred to in this subdivision shall be stayed pending appeal.

(3) If not otherwise appealed by a party to the action, any such decision referred to in this subdivision which is a judgment by the appellate ~~department~~ *division* of the superior court, shall be appealed by the Attorney General.

(p) A judgment of the court under subdivision (b), (c), (d), or (e) is subject to the following appeal path:

(1) In a felony case, appeal is to the court of appeal.

(2) In a misdemeanor case, or in a case in which no accusatory pleading was filed, appeal is to the appellate division of the superior court.

Comment. Section 851.8 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court (Cal. Const. art. VI, §§ 1, 5(b)); the creation of the appellate division of the superior court (Cal. Const. art. VI, § 4); and elimination of the term “district” from the name of the courts of appeal (Cal. Const. art. VI, § 3).

Penal Code § 859 (amended). Counsel for defendant

SEC. _____. Section 859 of the Penal Code is amended to read:

859. When the defendant is charged with the commission of a ~~public offense over which the superior court has original jurisdiction,~~ *felony* by a written complaint subscribed under oath and on file in a court within the county in which the ~~public offense~~

felony is triable, he or she shall, without unnecessary delay, be taken before a magistrate of the court in which the complaint is on file. The magistrate shall immediately deliver to the defendant a copy of the complaint, inform the defendant that he or she has the right to have the assistance of counsel, ask the defendant if he or she desires the assistance of counsel, and allow the defendant reasonable time to send for counsel. However, in a capital case, the court shall inform the defendant that the defendant must be represented in court by counsel at all stages of the preliminary and trial proceedings and that the representation will be at the defendant's expense if the defendant is able to employ counsel or at public expense if he or she is unable to employ counsel, inquire of him or her whether he or she is able to employ counsel and, if so, whether the defendant desires to employ counsel of the defendant's choice or to have counsel assigned for him or her, and allow the defendant a reasonable time to send for his or her chosen or assigned counsel. ~~The magistrate must, upon the request of the defendant, require a peace officer to take a message to any counsel whom the defendant may name, in the judicial district in which the court is situated. The officer shall, without delay and without a fee, perform that duty.~~ If the defendant desires and is unable to employ counsel, the court shall assign counsel to defend him or her; in a capital case, if the defendant is able to employ counsel and either refuses to employ counsel or appears without counsel after having had a reasonable time to employ counsel, the court shall assign counsel to defend him or her. If it appears that the defendant may be a minor, the magistrate shall ascertain whether that is the case, and if the magistrate concludes that it is probable that the defendant is a minor, he or she shall immediately either notify the parent or guardian of the minor, by telephone or messenger, of the arrest, or appoint counsel to represent the minor.

Comment. Section 859 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 & Comment ("judicial district" defined). The amendment also deletes language that conflicts with Section 14 of Article 1 of the California Constitution (magistrate shall require peace officer to transmit message to counsel within county).

Penal Code § 859a (amended). Pleading

SEC. _____. Section 859a of the Penal Code is amended to read:

859a. (a) If the public offense charged is a felony not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him or her whether he or she pleads guilty or not guilty to the offense charged therein and to a previous conviction or convictions of crime if charged. While the charge remains pending before the magistrate and when the defendant's counsel is present, the defendant may plead guilty to the offense charged, or, with the consent of the magistrate and the district attorney or other counsel for the people, plead *nolo contendere* to the offense charged or plead guilty or *nolo contendere* to any other offense the commission of which is necessarily included in that with which he or she is charged, or to an attempt to commit the offense charged and to the previous conviction or convictions of crime if charged upon a plea of guilty or *nolo contendere*. The magistrate may then fix a reasonable bail as provided by this code, and upon failure to deposit the bail or surety, shall immediately commit the defendant to the sheriff. Upon accepting the plea of guilty or *nolo contendere* the magistrate shall certify the case, including a copy of all proceedings therein and any testimony that in his or her discretion he or she may require to be taken, to the court in which judgment is to be pronounced at the time specified under subdivision (b), and thereupon the proceedings shall be had as if the defendant had pleaded guilty in that court. This subdivision shall not be construed to authorize the receiving of a plea of guilty or *nolo contendere* from any defendant not represented by counsel. If the defendant subsequently files a written motion to withdraw the plea under Section 1018, the motion shall be heard and determined by the court before which the plea was entered.

(b) Notwithstanding Section 1191 or 1203, the magistrate shall, upon the receipt of a plea of guilty or *nolo contendere* and upon the performance of the other duties of the magistrate under this section, immediately appoint a time for pronouncing judgment in the superior court, ~~municipal court, or justice or municipal court~~

and refer the case to the probation officer if eligible for probation, as prescribed in Section 1191.

Comment. Section 859a is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 859c (added). Review of challenged ruling or order by different judge

SEC. _____. Section 859c is added to the Penal Code, to read:

859c. Procedures under this code that provide for superior court review of a challenged ruling or order made by a superior court judge or a magistrate shall be performed by a superior court judge other than the judge or magistrate who originally made the ruling or order, unless agreed to by the parties.

Comment. Section 859c is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It preserves the policy of Article VI, Section 23(c)(7) of the California Constitution. See also Gov't Code § 70212(f) (transitional provisions).

Penal Code § 860 (amended). Examination of case

SEC. _____. Section 860 of the Penal Code is amended to read:

860. At the time set for the examination of the case, if the public offense is

~~1. Not a felony, but within the jurisdiction of the superior court, or is~~

~~2. A a felony punishable with death, or is~~

~~3. A a felony to which the defendant has not pleaded guilty in accordance with Section 859a of this code, then, if the defendant requires the aid of counsel, the magistrate must allow the defendant a reasonable time to send for counsel, and may postpone the examination for not less than two nor more than five days for that purpose. The magistrate must, immediately after the appearance of counsel, or if, after waiting a reasonable time therefor, none appears, proceed to examine the case; provided, however, that a defendant represented by counsel may when brought before the magistrate as provided in Section 858 or at any time subsequent thereto, waive his the right to an examination before such magistrate, and thereupon it shall be the duty of the magistrate to make an order holding the defendant to answer, and it shall be the~~

duty of the district attorney within 15 days thereafter, to file in the superior court of the county in which the offense is triable the information; provided, further, however, that nothing contained herein shall prevent the district attorney nor the magistrate from requiring that an examination be held as provided in this chapter. ~~Nothing contained in this section shall affect the jurisdiction or procedure of the superior court sitting as a juvenile court.~~

Comment. Section 860 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The amendment ensures no change in the availability of counsel in the superior court.

Willful or corrupt misconduct in office by a local public official is punishable by removal from office under Government Code Section 3060 *et seq.* It is a non-felony offense within the jurisdiction of the superior court, for which there is no examination before a magistrate.

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See Welf. & Inst. Code §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 869 (amended). Report of examination

SEC. _____. Section 869 of the Penal Code is amended to read:

869. The testimony of each witness in cases of homicide shall be reduced to writing, as a deposition, by the magistrate, or under his or her direction, and in other cases upon the demand of the prosecuting attorney, or the defendant, or his or her counsel. The magistrate before whom the examination is had may, in his or her discretion, order the testimony and proceedings to be taken down in shorthand in all examinations herein mentioned, and for that purpose he or she may appoint a shorthand reporter. The deposition or testimony of the witness shall be authenticated in the following form:

(a) It shall state the name of the witness, his or her place of residence, and his or her business or profession; except that if the witness is a peace officer, it shall state his or her name, and the address given in his or her testimony at the hearing.

(b) It shall contain the questions put to the witness and his or her answers thereto, each answer being distinctly read to him or her as

it is taken down, and being corrected or added to until it conforms to what he or she declares is the truth, except in cases where the testimony is taken down in shorthand, the answer or answers of the witness need not be read to him or her.

(c) If a question put be objected to on either side and overruled, or the witness declines answering it, that fact, with the ground on which the question was overruled or the answer declined, shall be stated.

(d) The deposition shall be signed by the witness, or if he or she refuses to sign it, his or her reason for refusing shall be stated in writing, as he or she gives it, except in cases where the deposition is taken down in shorthand, it need not be signed by the witness.

(e) The reporter shall, within 10 days after the close of the examination, if the defendant be held to answer the charge in ~~superior court of a felony~~, or in any other case if either the defendant or the prosecution orders the transcript, transcribe his or her shorthand notes, making an original and one copy and as many additional copies thereof as there are defendants (other than fictitious defendants), regardless of the number of charges or fictitious defendants included in the same examination, and certify and deliver the original and all copies to the county clerk of the county in which the defendant was examined. The reporter shall, before receiving any compensation as a reporter, file with the auditor of the county his or her affidavit setting forth that the transcript has been delivered to the county clerk within the time herein provided for. The compensation of the reporter for any services rendered by him or her as the reporter in any court of this state shall be reduced one-half if the provisions of this section as to the time of filing said transcript have not been complied with by him or her.

(f) In every case in which a transcript is delivered as provided in this section, the county clerk shall file the original of the transcript with the papers in the case, and shall deliver a copy of the transcript to the district attorney immediately upon his or her receipt thereof and shall deliver a copy of said transcript to each defendant (other than a fictitious defendant) at least five days before trial or upon earlier demand by him or her without cost to

him or her; provided, that if any defendant be held to answer to two or more charges upon the same examination and thereafter the district attorney shall file separate informations upon said several charges, the delivery to each such defendant of one copy of the transcript of the examination shall be a compliance with this section as to all of those informations.

(g) If the transcript is delivered by the reporter within the time hereinbefore provided for, the reporter shall be entitled to receive the compensation fixed and allowed by law to reporters in the superior courts of this state.

Comment. Section 869 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 949 (amended). First pleading by people

SEC. _____. Section 949 of the Penal Code is amended to read:

949. The first pleading on the part of the people in the superior court *in a felony case* is the indictment, information, accusation, or the complaint in any case certified to the superior court under Section 859a ~~or the complaint filed in accordance with the provisions of Section 272.~~ The first pleading on the part of the people in all inferior courts *a misdemeanor or infraction case* is the complaint except as otherwise provided by law. *The first pleading on the part of the people in a proceeding pursuant to Section 3060 of the Government Code is an accusation.*

Comment. Section 949 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

The reference to a complaint filed in accordance with the provisions of Section 272 is deleted as obsolete. Section 272 is no longer part of the Juvenile Court Law and does not include special provisions for filing a complaint. *Cf.* former Welf. & Inst. Code § 702. Section 272 is now a misdemeanor within the original jurisdiction of the municipal court or, in a county in which there is no municipal court, the superior court. Section 1462.

A trial under Government Code Section 3060 (removal of public official from office) is conducted in all respects in the same manner as the trial of an indictment. Gov't Code § 3070. Appeal is to the court of appeal. Gov't Code § 3075.

Penal Code § 977 (amended). Presence of defendant and counsel

SEC. _____. Section 977 of the Penal Code is amended to read:

977. (a)(1) In all cases in which the accused is charged with a misdemeanor only, he or she may appear by counsel only, except as provided in paragraph (2). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) When the accused is charged with a misdemeanor offense involving domestic violence, as defined in Section 6211 of the Family Code, or a misdemeanor violation of Section 273.6, upon a satisfactory showing of necessity, the court may order through counsel that the accused be personally present in court for the purpose of the service of an order under Section 136.2, unless the court determines that the defendant will make another court appearance within a reasonable period of time and the defendant could be served with a restraining order at that time.

(b)(1) In all cases in which a felony is charged, the accused shall be present at the arraignment, at the time of plea, during the preliminary hearing, during those portions of the trial when evidence is taken before the trier of fact, and at the time of the imposition of sentence. The accused shall be personally present at all other proceedings unless he or she shall, with leave of court, execute in open court, a written waiver of his or her right to be personally present, as provided by paragraph (2). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (c).

(2) The accused may execute a written waiver of his or her right to be personally present, approved by his or her counsel, and the waiver shall be filed with the court. However, the court may specifically direct the defendant to be personally present at any particular proceeding or portion thereof. The waiver shall be substantially in the following form:

“WAIVER OF DEFENDANT’S PERSONAL PRESENCE”

“The undersigned defendant, having been advised of his or her right to be present at all stages of the proceedings, including, but not limited to, presentation of and arguments on questions of fact and law, and to be confronted by and cross-examine all witnesses, hereby waives the right to be present at the hearing of any motion

or other proceeding in this cause. The undersigned defendant hereby requests the court to proceed during every absence of the defendant that the court may permit pursuant to this waiver, and hereby agrees that his or her interest is represented at all times by the presence of his or her attorney the same as if the defendant were personally present in court, and further agrees that notice to his or her attorney that his or her presence in court on a particular day at a particular time is required is notice to the defendant of the requirement of his or her appearance at that time and place.”

(c) The court may permit the initial court appearance and arraignment in municipal or superior court of defendants held in any state, county, or local facility within the county on felony or misdemeanor charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. If the defendant is represented by counsel, the attorney shall be present with the defendant at the initial court appearance and arraignment, and may enter a plea during the arraignment. However, if the defendant is represented by counsel at an initial hearing in superior court *in a felony case*, and if the defendant does not plead guilty or nolo contendere to any charge, the attorney shall be present with the defendant or if the attorney is not present with the defendant, the attorney shall be present in court during the hearing. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests. If the defendant decides not to exercise the right to be physically present in the courtroom, he or she shall execute a written waiver of that right. A judge may order a defendant’s personal appearance in court for the initial court appearance and arraignment. In a misdemeanor case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom. In a felony case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom if the parties stipulate thereto.

(d) Notwithstanding subdivision (c), if the defendant is represented by counsel, the attorney shall be present with the defendant in any county exceeding 4,000,000 persons in population.

Comment. Section 977 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 691 (defining “felony case” and “misdemeanor case”).

Penal Code § 977.2 (amended). Pilot project

SEC. _____. Section 977.2 of the Penal Code is amended to read:

977.2. (a) The Department of Corrections may establish a three-year pilot project as follows:

(1) Notwithstanding Section 977 or any other law, in all cases in which the defendant is charged with a misdemeanor or a felony and is currently incarcerated in the state prison, the Department of Corrections may arrange for the initial court appearance and arraignment in municipal or superior court to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. Nothing in this section shall be interpreted to eliminate the authority of the court to issue an order requiring the defendant to be physically present in the courtroom in those cases where the court finds circumstances that require the physical presence of the defendant in the courtroom.

(2) If the defendant is represented by counsel, the attorney shall be present with the defendant at the initial court appearance and arraignment, and may enter a plea during the arraignment. However, if the defendant is represented by counsel at an initial hearing in superior court *in a felony case*, and if the defendant does not plead guilty or nolo contendere to any charge, the attorney shall be present with the defendant or if the attorney is not present with the defendant, the attorney shall be present in court during the hearing.

(3) In lieu of the physical presence of the defendant’s counsel at the institution with the defendant, the court and the department shall establish a confidential telephone and facsimile transmission line between the court and the institution for communication between the defendant’s counsel in court and the defendant at the

institution. In this case, counsel for the defendant shall not be required to be physically present at the institution during the initial court appearance and arraignment via electronic audiovideo communication. Nothing in this section shall be construed to prohibit the physical presence of the defense counsel with the defendant at the state prison.

(b) The pilot project shall consist of not more than five institutions and shall include, at a minimum, one maximum security institution, one institution from Imperial County, and one institution housing females.

(c) A defendant who is physically present in an institution taking part in the pilot project, but who has committed a misdemeanor or felony at an institution not subject to the pilot project, may, at the discretion of the director, be waived from having the initial appearance and arraignment conducted by two-way electronic audiovideo communication subject to the limitations provided by this section.

(d) The department shall prepare and submit a report to the Legislature on or before June 30, 1999, that includes an assessment of the costs and benefits of the pilot project and a recommendation on whether to expand the pilot project statewide.

(e) This section shall remain in effect only until January 1, 2000, and as of that date is repealed.

Comment. Section 977.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) ("felony case" defined).

Penal Code § 977.4 (amended). Santa Barbara County pilot project

SEC. _____. Section 977.4 of the Penal Code is amended to read:

977.4. (a) Upon adoption of a resolution by the board of supervisors, the County of Santa Barbara may establish a three-year pilot project to be conducted pursuant to this section.

(b)(1) Notwithstanding Section 977, in all cases in which the accused is charged with a misdemeanor only, he or she may appear by counsel only, except as provided in paragraph (2). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (d).

(2) When the accused is charged with a misdemeanor offense involving domestic violence, as defined in Section 6211 of the Family Code, or a misdemeanor violation of Section 273.6, upon a satisfactory showing of necessity, the court may order through counsel that the accused be personally present in court for the purpose of the service of an order under Section 136.2, unless the court determines that the defendant will make another court appearance within a reasonable period of time and the defendant could be served with a restraining order at that time.

(c)(1) In all cases in which a felony is charged, the accused shall be present at the arraignment, at the time of plea, during the preliminary hearing, during those portions of the trial when evidence is taken before the trier of fact, and at the time of the imposition of sentence. The accused shall be personally present at all other proceedings unless he or she shall, with leave of court, execute in open court, a written waiver of his or her right to be personally present, as provided by paragraph (2). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as provided by subdivision (d).

(2) The accused may execute a written waiver of his or her right to be personally present, approved by his or her counsel, and the waiver shall be filed with the court. However, the court may specifically direct the defendant to be personally present at any particular proceeding or portion thereof. The waiver shall be substantially in the following form:

“WAIVER OF DEFENDANT’S PERSONAL PRESENCE”

“The undersigned defendant, having been advised of his or her right to be present at all stages of the proceedings, including, but not limited to, presentation of and arguments on questions of fact and law, and to be confronted by and cross-examine all witnesses, hereby waives the right to be present at the hearing of any motion or other proceeding in this cause. The undersigned defendant hereby requests the court to proceed during every absence of the defendant that the court may permit pursuant to this waiver, and hereby agrees that his or her interest is represented at all times by the presence of his or her attorney the same as if the defendant

were personally present in court, and further agrees that notice to his or her attorney that his or her presence in court on a particular day at a particular time is required is notice to the defendant of the requirement of his or her appearance at that time and place.”

(d) The court may permit the initial court appearance and arraignment in municipal or superior court of defendants held in any state, county, or local facility within the county on felony or misdemeanor charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. If the defendant is represented by counsel, the attorney shall be present with the defendant or, in courts where the two-way electronic audiovideo communication system permits confidential communication, the attorney may be present either in court or with the defendant. If the attorney is present in court, the defendant shall consult with the attorney via confidential two-way electronic audiovideo communication prior to the entry of any plea by the attorney. The defendant shall consult confidentially with his or her attorney in person prior to the entry of any plea, unless the defendant has expressly waived the right to be represented by an attorney. If the attorney is present at the detention facility with the defendant, the attorney may enter a plea during the arraignment via two-way electronic audiovideo communication pursuant to this subdivision. However, if the defendant is represented by counsel at an initial hearing in superior court *in a felony case*, and if the defendant does not plead guilty or nolo contendere to any charge, the attorney shall be present with the defendant or if the attorney is not present with the defendant, the attorney shall be present in court during the hearing. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests. If the defendant decides not to exercise the right to be physically present in the courtroom, he or she shall execute a written waiver of that right. A judge may order a defendant’s personal appearance in court for the initial court appearance and arraignment. In a misdemeanor case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest

from a defendant who is not physically in the courtroom. In a felony case, a judge may, pursuant to this subdivision, accept a plea of guilty or no contest from a defendant who is not physically in the courtroom if the parties stipulate thereto.

(e) For purposes of this section, “confidential communication” means a communication that is secured under the confidentiality of the attorney-client privilege (Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code).

(f) The public defender of the County of Santa Barbara shall evaluate the pilot project conducted pursuant to this section and submit a report to the Legislature on or before January 1, 1999, on that evaluation.

(g) This section shall remain operative only until July 1, 1999, and as of January 1, 2000, is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

Comment. Section 977.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) (“felony case” defined).

Penal Code § 987.1 (amended). Representation by counsel

SEC. _____. Section 987.1 of the Penal Code is amended to read:

987.1. Counsel at the preliminary examination shall continue to represent a defendant who has been ordered to stand trial *for a felony* until the date set for his arraignment ~~in superior court on the information~~ unless relieved by the court upon the substitution of other counsel or for cause.

Comment. Section 987.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 987.2 (amended). Compensation of assigned counsel

SEC. _____. Section 987.2 of the Penal Code is amended to read:

987.2. (a) In any case in which a person, including a person who is a minor, desires but is unable to employ counsel, and in which counsel is assigned in the superior, ~~municipal, or justice or municipal~~ court to represent the person in a criminal trial, proceeding, or appeal, the following assigned counsel shall receive a reasonable sum for compensation and for necessary expenses, the

amount of which shall be determined by the court, to be paid out of the general fund of the county:

(1) In a county or city and county in which there is no public defender.

(2) In a county of the first, second, or third class where there is no contract for criminal defense services between the county and one or more responsible attorneys.

(3) In a case in which the court finds that, because of a conflict of interest or other reasons, the public defender has properly refused.

(4) In a county of the first, second, or third class where attorneys contracted by the county are unable to represent the person accused.

(b) The sum provided for in subdivision (a) may be determined by contract between the court and one or more responsible attorneys after consultation with the board of supervisors as to the total amount of compensation and expenses to be paid, which shall be within the amount of funds allocated by the board of supervisors for the cost of assigned counsel in those cases.

(c) In counties that utilize an assigned private counsel system as either the primary method of public defense or as the method of appointing counsel in cases where the public defender is unavailable, the county, the courts, or the local county bar association working with the courts are encouraged to do all of the following:

(1) Establish panels that shall be open to members of the State Bar of California.

(2) Categorize attorneys for panel placement on the basis of experience.

(3) Refer cases to panel members on a rotational basis within the level of experience of each panel, except that a judge may exclude an individual attorney from appointment to an individual case for good cause.

(4) Seek to educate those panel members through an approved training program.

(5) Establish a cost-efficient plan to ensure maximum recovery of costs pursuant to Section 987.8.

(d) In a county of the first, second, or third class, the court shall first utilize the services of the public defender to provide criminal defense services for indigent defendants. In the event that the public defender is unavailable and the county and the courts have contracted with one or more responsible attorneys or with a panel of attorneys to provide criminal defense services for indigent defendants, the court shall utilize the services of the county-contracted attorneys prior to assigning any other private counsel. Nothing in this subdivision shall be construed to require the appointment of counsel in any case in which the counsel has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of a county-contracted attorney after making a finding of good cause and stating the reasons therefor on the record.

(e) In a county of the first, second, or third class, the court shall first utilize the services of the public defender to provide criminal defense services for indigent defendants. In the event that the public defender is unavailable and the county has created a second public defender and contracted with one or more responsible attorneys or with a panel of attorneys to provide criminal defense services for indigent defendants, and if the quality of representation provided by the second public defender is comparable to the quality of representation provided by the public defender, the court shall next utilize the services of the second public defender and then the services of the county-contracted attorneys prior to assigning any other private counsel. Nothing in this subdivision shall be construed to require the appointment of counsel in any case in which the counsel has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the second public defender or a county-contracted attorney after making a finding of good cause and stating the reasons therefor on the record.

(f) In any case in which counsel is assigned as provided in subdivision (a), that counsel appointed by the court and any court-appointed licensed private investigator shall have the same rights and privileges to information as the public defender and the public defender investigator. It is the intent of the Legislature in enacting

this subdivision to equalize any disparity that exists between the ability of private, court-appointed counsel and investigators, and public defenders and public defender investigators, to represent their clients. This subdivision is not intended to grant to private investigators access to any confidential Department of Motor Vehicles' information not otherwise available to them. This subdivision is not intended to extend to private investigators the right to issue subpoenas.

(g) Notwithstanding any other provision of this section, where an indigent defendant is first charged in one county and establishes an attorney-client relationship with the public defender, defense services contract attorney, or private attorney, and where the defendant is then charged with an offense in a second or subsequent county, the court in the second or subsequent county may appoint the same counsel as was appointed in the first county to represent the defendant when all of the following conditions are met:

(1) The offense charged in the second or subsequent county would be joinable for trial with the offense charged in the first if it took place in the same county, or involves evidence which would be cross-admissible.

(2) The court finds that the interests of justice and economy will be best served by unitary representation.

(3) Counsel appointed in the first county consents to the appointment.

(h) The county may recover costs of public defender services under Chapter 6 (commencing with Section 4750) of Title 5 of Part 3 for any case subject to Section 4750.

(i) Counsel shall be appointed to represent, ~~in the municipal or justice court~~ *a misdemeanor case*, a person who desires but is unable to employ counsel, when it appears that the appointment is necessary to provide an adequate and effective defense for the defendant. *Appointment of counsel in an infraction case is governed by Section 19.6.*

(j) As used in this section, "county of the first, second, or third class" means the county of the first class, county of the second

class, and county of the third class as provided by Sections 28020, 28022, 28023, and 28024 of the Government Code.

Comment. Section 987.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

This section does not create a right to appointment of counsel in an infraction case to the extent the right is limited by Section 19.6.

Penal Code § 988 (amended). Arraignment

SEC. _____. Section 988 of the Penal Code is amended to read:

988. The arraignment must be made by the court, or by the clerk or prosecuting attorney under its direction, and consists in reading the accusatory pleading to the defendant and delivering to ~~him~~ *the defendant* a true copy thereof, and of the endorsements thereon, if any, including the list of witnesses, and asking ~~him~~ *the defendant* whether ~~he~~ *the defendant* pleads guilty or not guilty to the accusatory pleading; provided, that where the accusatory pleading is a complaint charging a misdemeanor ~~triable in an inferior court~~, a copy of the same need not be delivered to any defendant unless requested by ~~him~~ *the defendant*.

Comment. Section 988 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 990 (amended). Time to answer

SEC. _____. Section 990 of the Penal Code is amended to read:

990. If on the arraignment, the defendant requires it, ~~he~~ *the defendant* must be allowed a reasonable time to answer, which shall be not less than one day ~~for an offense originally triable in the superior court in a felony case~~ and not more than seven days ~~for an offense originally triable in an inferior court in a misdemeanor or infraction case~~.

Comment. Section 990 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1000 (amended). Eligibility for deferred entry of judgment

SEC. _____. Section 1000 of the Penal Code is amended to read:

1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for a violation of Section 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if the narcotic drug was secured by a fictitious prescription and is for the personal use of the defendant and was not sold or furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4230 of the Business and Professions Code, and it appears to the prosecuting attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of the sections listed in this subdivision.

(4) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(5) The defendant's record does not indicate that he or she has successfully completed or been terminated from diversion or deferred entry of judgment pursuant to this chapter within five years prior to the alleged commission of the charged offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged offense.

(b) The prosecuting attorney shall review his or her file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) apply to the defendant. Upon the agreement of the prosecuting attorney, law enforcement, the public defender, and the presiding judge of the criminal division of the municipal court *or*

of the superior court in a county in which there is no municipal court, or a judge designated by the presiding judge, this procedure shall be completed as soon as possible after the initial filing of the charges. If the defendant is found eligible, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. This procedure is intended to allow the court to set the hearing for deferred entry of judgment at the arraignment. If the defendant is found ineligible for deferred entry of judgment, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. The sole remedy of a defendant who is found ineligible for deferred entry of judgment is a postconviction appeal.

(c) All referrals for deferred entry of judgment granted by the court pursuant to this chapter shall be made only to programs that have been certified by the county drug program administrator pursuant to Chapter 1.5 (commencing with Section 1211) of Title 8, or to programs that provide services at no cost to the participant and have been deemed by the court and the county drug program administrator to be credible and effective. The defendant may request to be referred to a program in any county, as long as that program meets the criteria set forth in this subdivision.

(d) Deferred entry of judgment for a violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1000.4.

(e) Any defendant who is participating in a program referred to in this section may be required to undergo analysis of his or her urine for the purpose of testing for the presence of any drug as part of the program. However, urine analysis results shall not be admissible as a basis for any new criminal prosecution or proceeding.

Comment. Section 1000 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1007 (amended). Demurrer

SEC. _____. Section 1007 of the Penal Code is amended to read:

1007. Upon considering the demurrer, the court must make an order either overruling or sustaining it. If the demurrer is overruled, the court must permit the defendant, at ~~his~~ *the defendant's* election, to plead, which ~~he~~ *the defendant* must do forthwith, unless the court extends the time. If the demurrer *to an indictment or information* is sustained ~~by a superior court~~, the court must, if the defect can be remedied by amendment, permit the indictment or information to be amended, either forthwith or within such time, not exceeding 10 days, as it may fix, or, if the defect or insufficiency therein cannot be remedied by amendment, the court may direct the filing of a new information or the submission of the case to the same or another grand jury. If the demurrer *to a complaint* is sustained ~~by an inferior court~~, the court must, if the defect can be remedied, permit the filing of an amended complaint within such time not exceeding 10 days as it may fix. The orders made under this section shall be entered in the docket or minutes of the court.

Comment. Section 1007 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1009 (amended). Amendment of accusatory pleading

SEC. _____. Section 1009 of the Penal Code is amended to read:

1009. An indictment, accusation or information may be amended by the district attorney, and an amended complaint may be filed by the prosecuting attorney ~~in any inferior court~~, without leave of court at any time before the defendant pleads or a demurrer to the original pleading is sustained. The court in which an action is pending may order or permit an amendment of an indictment, accusation or information, or the filing of an amended complaint, for any defect or insufficiency, at any stage of the proceedings, or if the defect in an indictment or information be one that cannot be remedied by amendment, may order the case submitted to the same or another grand jury, or a new information to be filed. The

defendant shall be required to plead to such amendment or amended pleading forthwith, or, at the time fixed for pleading, if he *the defendant* has not yet pleaded and the trial or other proceeding shall continue as if the pleading had been originally filed as amended, unless the substantial rights of the defendant would be prejudiced thereby, in which event a reasonable postponement, not longer than the ends of justice require, may be granted. An indictment or accusation cannot be amended so as to change the offense charged, nor an information so as to charge an offense not shown by the evidence taken at the preliminary examination. A complaint cannot be amended to charge an offense not attempted to be charged by the original complaint, except that separate counts may be added which might properly have been joined in the original complaint. The amended complaint must be verified but may be verified by some person other than the one who made oath to the original complaint.

Comment. Section 1009 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1010 (amended). Dismissal due to defective or insufficient indictment or information

SEC. _____. Section 1010 of the Penal Code is amended to read:

1010. When a ~~criminal action in the superior court~~ *an indictment or information* is dismissed after the sustaining of a demurrer, or at any other stage of the proceedings because of any defect or insufficiency of the indictment or information, if the court directs that the case be resubmitted to the same or another grand jury or that a new information be filed, the defendant shall not be discharged from custody, nor ~~his~~ *the defendant's* bail exonerated nor money or other property deposited instead of bail on ~~his~~ *the defendant's* behalf refunded, but the same proceedings must be had on such direction as are prescribed in Sections 997 and 998.

Comment. Section 1010 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1016 (amended). Pleas

SEC. _____. Section 1016 of the Penal Code is amended to read:

1016. There are six kinds of pleas to an indictment or an information, or to a complaint charging ~~an offense triable in any inferior court~~ *a misdemeanor or infraction*:

1. Guilty.

2. Not guilty.

3. Nolo contendere, subject to the approval of the court. The court shall ascertain whether the defendant completely understands that a plea of nolo contendere shall be considered the same as a plea of guilty and that, upon a plea of nolo contendere, the court shall find the defendant guilty. The legal effect of such a plea, to a crime punishable as a felony, shall be the same as that of a plea of guilty for all purposes. In cases other than those punishable as felonies, the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, and factual basis for, the plea may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based.

4. A former judgment of conviction or acquittal of the offense charged.

5. Once in jeopardy.

6. Not guilty by reason of insanity.

A defendant who does not plead guilty may enter one or more of the other pleas. A defendant who does not plead not guilty by reason of insanity shall be conclusively presumed to have been sane at the time of the commission of the offense charged; provided, that the court may for good cause shown allow a change of plea at any time before the commencement of the trial. A defendant who pleads not guilty by reason of insanity, without also pleading not guilty, thereby admits the commission of the offense charged.

Comment. Section 1016 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Cf. Section 691 & Comment.

Penal Code § 1038 (amended). Judicial Council rules

SEC. _____. Section 1038 of the Penal Code is amended to read:

1038. (a) The Judicial Council shall adopt rules of practice and procedure for the change of venue in criminal actions.

(b) Judicial Council rules may provide for transfer of a misdemeanor or infraction case in the superior court in a county in which there is no municipal court to another branch or location of the superior court in the same county.

Comment. Section 1038 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. See also Code Civ. Proc. § 38 & Comment (“judicial district” defined).

Subdivision (b) makes clear that even though a misdemeanor or infraction case is triable in the superior court in a county in which there is no municipal court, there may be circumstances where it is appropriate to transfer the case for trial within the same county rather than to another county. This parallels statutory authority for change of venue in municipal court to another judicial district in the same county. See Sections 1034, 1035. Subdivision (b) is a specific instance of the general authority of the Judicial Council provided in subdivision (a), and is not intended to limit the general authority of the Judicial Council to adopt any appropriate change of venue rules under subdivision (a).

Penal Code § 1039 (added). Change of venue in county with no municipal court

SEC. _____. Section 1039 is added to the Penal Code to read:

1039. A change of venue in a misdemeanor or infraction case shall be to a municipal court in the county to which the case is transferred or to the superior court if there is no municipal court in that county.

Comment. Section 1039 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. It recognizes that transfer of a misdemeanor or infraction case may occur between a superior and municipal court if the courts in one but not both counties have unified. *Cf.* Section 1462 (misdemeanor jurisdiction in municipal court or superior court in county in which there is no municipal court).

Penal Code § 1050 (amended). Expediting trial

SEC. _____. Section 1050 of the Penal Code is amended to read:

1050. (a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances

contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails. It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both for the prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency of, any civil matters or proceedings.

(b) To continue any hearing in a criminal proceeding, including the trial, (1) a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary; and (2), within two court days of learning that he or she has a conflict in the scheduling of any court hearing, including a trial, an attorney shall notify the calendar clerk of each court involved, in writing, indicating which hearing was set first. A party shall not be deemed to have been served within the meaning of this section until that party actually has received a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney shall notify people's witnesses and the defense attorney shall notify defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court. The superior and municipal courts of a county may adopt rules, which shall be consistent, regarding the method of giving the notice or waiver of service required by this subdivision, where a continuance is sought because of a conflict between scheduled appearances in the courts of that county.

(c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that

subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court may impose sanctions as provided in Section 1050.5.

(d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of the finding and a statement of facts proved shall be entered in the minutes. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

(e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause.

(f) At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

(g) When deciding whether or not good cause for a continuance has been shown, the court shall consider the general convenience and prior commitments of all witnesses, including peace officers. Both the general convenience and prior commitments of each witness also shall be considered in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.

For purposes of this section, “good cause” includes, but is not limited to, those cases involving allegations that a violation of one or more of the sections specified in subdivision (a) of Section 11165.1 or Section 11165.6, or domestic violence as defined in Section 13700, has occurred and the prosecuting attorney assigned to the case has another trial, preliminary hearing, or motion to suppress in progress in that court or another court. A continuance

under this paragraph shall be limited to a maximum of 10 additional court days.

(h) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court *on an indictment or information* is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.

(i) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the court shall state on the record the facts proved that justify the length of the continuance, and those facts shall be entered in the minutes.

(j) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382, the court must immediately notify the Chairman of the Judicial Council.

(k) This section shall not apply when the preliminary examination is set on a date less than 10 court days from the date of the defendant's arraignment on the complaint, and the prosecution or the defendant moves to continue the preliminary examination to a date not more than 10 court days from the date of the defendant's arraignment on the complaint.

Comment. Section 1050 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1130 (amended). Failure of prosecuting attorney to attend

SEC. _____. Section 1130 of the Penal Code is amended to read:

1130. If the prosecuting attorney fails to attend at the trial ~~in the superior court~~ *of a felony*, the court must appoint some attorney at law to perform the duties of the prosecuting attorney on such trial.

Comment. Section 1130 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1150 (amended). General verdict of jury

SEC. _____. Section 1150 of the Penal Code is amended to read:

1150. The jury must render a general verdict, except that in a ~~superior court~~ *felony case*, when they are in doubt as to the legal effect of the facts proved, they may, except upon a trial for libel, find a special verdict.

Comment. Section 1150 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) (“felony case” defined).

Penal Code § 1187 (amended). Order arresting judgment

SEC. _____. Section 1187 of the Penal Code is amended to read:

1187. The effect of an order arresting judgment, in a ~~superior court~~ *felony case*, is to place the defendant in the same situation in which ~~he~~ *the defendant* was immediately before the indictment was found or information filed. In ~~any other court a misdemeanor or infraction case~~, the effect is to place the defendant in the situation in which ~~he~~ *the defendant* was before the trial was had.

Comment. Section 1187 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691 (defining “felony case” and “misdemeanor case”).

Penal Code § 1191 (amended). Time for pronouncing judgment

SEC. _____. Section 1191 of the Penal Code is amended to read:

1191. In ~~the superior court a felony case~~, after a plea, finding, or verdict of guilty, or after a finding or verdict against the defendant on a plea of a former conviction or acquittal, or once in jeopardy, the court shall appoint a time for pronouncing judgment, which shall be within 20 judicial days after the verdict, finding, or plea of guilty, during which time the court shall refer the case to the probation officer for a report if eligible for probation and pursuant to Section 1203. However, the court may extend the time not more than 10 days for the purpose of hearing or determining any motion for a new trial, or in arrest of judgment, and may further extend the time until the probation officer’s report is received and until any proceedings for granting or denying probation have been disposed of. If, in the opinion of the court, there is a reasonable ground for believing a defendant insane, the court may extend the time for pronouncing sentence until the question of insanity has been heard and determined, as provided in this code. If the court orders

defendant placed in a diagnostic facility pursuant to Section 1203.03, the time otherwise allowed by this section for pronouncing judgment is extended by a period equal to (1) the number of days which elapse between the date of the order and the date on which notice is received from the Director of Corrections advising whether or not the Department of Corrections will receive defendant in the facility, and (2) if the director notifies the court that it will receive the defendant, the time which elapses until his or her return to the court from the facility.

Comment. Section 1191 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) (“felony case” defined).

Penal Code § 1203.1 (amended). Probation

SEC. _____. Section 1203.1 of the Penal Code is amended to read:

1203.1. (a) The court, or judge thereof, in the order granting probation, may suspend the imposing or the execution of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence, except as hereinafter set forth, and upon those terms and conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof, may imprison the defendant in a county jail for a period not exceeding the maximum time fixed by law in the case.

However, where the maximum possible term of the sentence is five years or less, then the period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years. The following shall apply to this subdivision:

(1) The court may fine the defendant in a sum not to exceed the maximum fine provided by law in the case.

(2) The court may, in connection with granting probation, impose either imprisonment in a county jail or a fine, both, or neither.

(3) The court shall provide for restitution in proper cases.

(4) The court may require bonds for the faithful observance and performance of any or all of the conditions of probation.

(b) The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. Any restitution payment received by a probation department in the form of cash or money order shall be forwarded to the victim within 30 days from the date the payment is received by the department. Any restitution payment received by a probation department in the form of a check or draft shall be forwarded to the victim within 45 days from the date the payment is received by the department, provided, that payment need not be forwarded to a victim until 180 days from the date the first payment is received, if the restitution payments for that victim received by the probation department total less than fifty dollars (\$50). In cases where the court has ordered the defendant to pay restitution to multiple victims and where the administrative cost of disbursing restitution payments to multiple victims involves a significant cost, any restitution payment received by a probation department shall be forwarded to multiple victims when it is cost effective to do so, but in no event shall restitution disbursements be delayed beyond 180 days from the date the payment is received by the probation department.

(c) In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in the road camp, farm, or other public work instead of in jail. In this case, Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work. Each county board of supervisors may fix the scale of compensation of the adult probationers in that county.

(d) In all cases of probation the court may require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account of his or her earnings, to report them to the probation officer and apply those earnings as directed by the court.

(e) The court shall also consider whether the defendant as a condition of probation shall make restitution to a public agency for

the costs of an emergency response pursuant to Article 8 (commencing with Section 53150) of Chapter 1 of Part 1 of Division 2 of the Government Code.

(f) In all *felony* cases in which, as a condition of probation, a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve his or her sentence at intermittent periods the sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

(g)(1) The court and prosecuting attorney shall consider whether any defendant who has been convicted of a nonviolent or nonserious offense and ordered to participate in community service as a condition of probation shall be required to engage in the removal of graffiti in the performance of the community service. For the purpose of this subdivision, a nonserious offense shall not include the following:

(A) Offenses in violation of the Dangerous Weapons' Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4).

(B) Offenses involving the use of a dangerous or deadly weapon, including all violations of Section 417.

(C) Offenses involving the use or attempted use of violence against the person of another or involving injury to a victim.

(D) Offenses involving annoying or molesting children.

(2) Notwithstanding subparagraph (A) of paragraph (1), any person who violates Section 12101 shall be ordered to perform not less than 100 hours and not more than 500 hours of community service as a condition of probation.

(3) The court and the prosecuting attorney need not consider a defendant pursuant to paragraph (1) if the following circumstances exist:

(A) The defendant was convicted of any offense set forth in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(B) The judge believes that the public safety may be endangered if the person is ordered to do community service or the judge

believes that the facts or circumstances or facts and circumstances call for imposition of a more substantial penalty.

(h) The probation officer or his or her designated representative shall consider whether any defendant who has been convicted of a nonviolent and nonserious offense and ordered to participate in community service as a condition of probation shall be required to engage in the performance of house repairs or yard services for senior citizens and the performance of repairs to senior centers through contact with local senior service organizations in the performance of the community service.

(i) Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the above-mentioned terms of imprisonment, fine, and other reasonable conditions, that the defendant shall participate in counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

(j) The court may impose and require any or all of the above-mentioned terms of imprisonment, fine, and conditions, and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all the terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all

conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

(k) Notwithstanding any other provisions of law to the contrary, except as provided in Section 13967, as operative on or before September 28, 1994, of the Government Code and Section 13967.5 of the Government Code and Sections 1202.4, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, and Section 1203.04, as operative on or before August 2, 1995, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund for the use and benefit of the county.

(l) If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 10 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

Comment. Section 1203.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 691 (defining “felony case” and “misdemeanor case”).

Penal Code § 1203.1c (amended). Cost of incarceration

SEC. _____. Section 1203.1c of the Penal Code is amended to read:

1203.1c. (a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in a county jail, city jail, or other local detention facility as a term of probation or a conditional sentence, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed the amount determined by the board of supervisors, with respect to the county jail, and by the city council, with respect to the city jail, to be the actual average

cost thereof on a per-day basis. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liability and income, under penalty of perjury, and may order the defendant to appear before a county officer designated by the board of supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At the hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county, or to the city with respect to incarceration in the city jail, in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

If practicable, the court shall order payments to be made on a monthly basis and the payments shall be made payable to the county officer designated by the board of supervisors, or to a city officer designated by the city council with respect to incarceration in the city jail.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section based upon income shall be developed by the county officer designated by the board of supervisors, or by the city council with respect to incarceration in the city jail, and approved by the presiding judges of the municipal and superior courts *in the county*.

(b) "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of incarceration and includes, but is not limited to, the defendant's:

(1) Present financial obligations, including family support obligations, and fines, penalties and other obligations to the court.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonable discernible future position.

(3) Likelihood that the defendant shall be able to obtain employment within the one year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county or city for the costs.

(c) All sums paid by a defendant pursuant to this section shall be deposited in the general fund of the county or city.

(d) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors, and shall be operative in a city upon the adoption of an ordinance to that effect by the city council. Such ordinance shall include a designation of the officer responsible for collection of moneys ordered pursuant to this section and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the county jail, city jail, or other local detention facility.

Comment. Section 1203.1c is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1214 (amended). Enforcement

SEC. _____. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 1202.4 or Section 1203.04, as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(b) In any case in which a defendant is ordered to pay restitution, the order to pay restitution (1) is deemed a money judgment if the

defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered, and (2) shall be fully enforceable by a victim as if the restitution order were a civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order. In addition, upon request, the court shall provide the State Board of Control with a certified copy of any order imposing a restitution fine or order. A victim shall have access to all resources available under the law to enforce the restitution order, including, but not limited to, access to the defendant's financial records, use of wage garnishment and lien procedures, information regarding the defendant's assets, and the ability to apply for restitution from any fund established for the purpose of compensating victims in civil cases. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation or parole is enforceable by the victim pursuant to this section. Victims and the State Board of Control shall inform the court whenever an order to pay restitution is satisfied.

(c) Except as provided in subdivision (d), and notwithstanding the amount in controversy limitation of Section 85 of the Code of Civil Procedure, a restitution order or restitution fine that was imposed pursuant to Section 1202.4 by the municipal court, or by the superior court acting pursuant to subdivision (d) of Section 1462, may be enforced in the same manner as a money judgment in a limited civil case.

(e)(d) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a judgment for any fine or restitution ordered pursuant to Section 1202.4 or Section 1203.04, as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994.

Comment. Section 1214 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). New subdivision (c) continues the policy of former Code of Civil Procedure Section

86(a)(11), which provided that the municipal court had original jurisdiction in all actions to enforce restitution orders or restitution fines that were imposed by the municipal court (without any limitation on amount in controversy). In certain criminal cases, a municipal court could impose a restitution order or restitution fine. Penal Code §§ 1462(a) (misdemeanor or infraction case), 1462(b) (pronouncing judgment in noncapital criminal case). In a county in which there is no municipal court, Penal Code Section 1462(d) gives the superior court the jurisdiction provided in Section 1462(a)-(b). Thus, new subdivision (c) of this section accommodates trial court unification and continues the effect of former law.

See Code Civ. Proc. §§ 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case).

Heading of Title 9 (commencing with Section 1235) (amended)

SEC. _____. The heading of Title 9 (commencing with Section 1235) of Part 2 of the Penal Code is amended to read:

TITLE 9 . APPEALS FROM SUPERIOR COURTS IN FELONY CASES

Comment. The heading of Title 9 (commencing with Section 1235) of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 691 (defining “felony case” and “misdemeanor case”).

Penal Code § 1235 (amended). Appeal on questions of law

SEC. _____. Section 1235 of the Penal Code is amended to read:

1235. (a) ~~Either party to a criminal action within the original trial jurisdiction of a superior court~~ *felony case* may appeal from that court on questions of law alone, as prescribed in this title and in rules adopted by the Judicial Council. The provisions of this title apply only to such appeals.

(b) *An appeal from the judgment or appealable order in a felony case is to the court of appeal for the district in which the court from which the appeal is taken is located.*

Comment. Section 1235 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) (“felony case” defined).

Subdivision (b) continues former Section 1466(b). Appeals in felony cases lie to the court of appeal, regardless of whether the appeal is from the superior court, the municipal court, or the action of a magistrate. *Cf.* Cal. Const. art. VI, §

11(a) (court of appeal appellate jurisdiction when superior courts have original jurisdiction and in other causes provided by statute).

Penal Code § 1269 (amended). Taking of bail

SEC. _____. Section 1269 of the Penal Code is amended to read:

1269. The taking of bail consists in the acceptance, by a competent court or magistrate, of the undertaking of sufficient bail for the appearance of the defendant, according to the terms of the undertaking, or that the bail will pay to the people of this State a specified sum. Upon filing, the clerk shall enter in the register of actions the date and amounts of such bond and the name or names of the surety or sureties thereon. In the event of the loss or destruction of such bond, such entries so made shall be prima facie evidence of the due execution of such bond as required by law.

Whenever any bail bond has been deposited in any criminal action or proceeding in a justice, municipal or superior court or in any proceeding in habeas corpus in a superior court, ~~either before or after the effective date of this amendment to this section,~~ and it is made to appear to the satisfaction of the court by affidavit or by testimony in open court that more than three years have elapsed since the exoneration or release of said bail, the court must direct that such bond be destroyed.

Comment. Section 1269 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The reference to the effective date of the 1955 amendment of the section is deleted as obsolete.

Penal Code § 1269b (amended). Bail proceedings

SEC. _____. Section 1269b of the Penal Code is amended to read:

1269b. (a) The officer in charge of a jail where an arrested person is held in custody, an officer of a sheriff's department or police department of a city who is in charge of a jail or employed at a fixed police or sheriff's facility and is acting under an agreement with the agency which keeps the jail wherein an arrested person is held in custody, an employee of a sheriff's department or police department of a city who is assigned by such department to collect bail, the clerk of the ~~justice or municipal~~ court of the judicial district in which the offense was alleged to have been committed, and the clerk of the superior court in which

the case against the defendant is pending may approve and accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof.

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance; if that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail for the county in which the defendant is required to appear, previously fixed and approved as provided in subdivisions (c) and (d).

(c) It is the duty of the superior, ~~municipal and justice~~ *and municipal* court judges in each county to prepare, adopt, and annually revise, by a majority vote, at a meeting called by the presiding judge of the superior court of the county, a uniform countywide schedule of bail for all bailable felony offenses.

In adopting a uniform countywide schedule of bail for all bailable offenses the judges shall consider the seriousness of the offense charged. In considering the seriousness of the offense charged the judges shall assign an additional amount of required bail for each aggravating or enhancing factor chargeable in the complaint, including, but not limited to, additional bail for charges alleging facts which would bring a person within any of the following sections: Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, or 12022.9 of the Penal Code, or Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

In considering offenses wherein a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge shall assign an additional

amount of required bail for offenses involving large quantities of controlled substances.

(d) The municipal ~~and justice~~ court judges in each county shall ~~prepare, adopt, and annually revise, by a majority vote,~~ at a meeting called by the presiding judge of the municipal court ~~or the senior judge of the justice court~~ at each county seat, *or the superior court judges in each county in which there is no municipal court, at a meeting called by the presiding judge of the superior court,* shall prepare, adopt, and annually revise, by a majority vote, a uniform, countywide schedule of bail for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for infraction violations of the Vehicle Code shall be established by the Judicial Council in accordance with Section 40310 of the Vehicle Code.

(e) Each countywide bail schedule shall contain a list of the offenses and the amounts of bail applicable thereto as the judges determine to be appropriate. If the schedules do not list all offenses specifically, they shall contain a general clause for designated amounts of bail as the judges of the county determine to be appropriate for all the offenses not specifically listed in the schedules. A copy of the countywide bail schedule shall be sent to the officer in charge of the county jail, to the officer in charge of each city jail within the county, to each superior, ~~municipal and justice~~ *and municipal* court judge and commissioner in the county, and to the Judicial Council.

(f) Upon posting bail the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.

All money and surety bonds so deposited with an officer authorized to receive bail shall be transmitted immediately to the judge or clerk of the court by which the order was made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, the judge or clerk of the court shall transmit all of the money and surety bonds to the county clerk.

(g) If a defendant or arrested person so released fails to appear at the time and in the court so ordered upon his or her release from custody, Sections 1305 and 1306 apply.

Comment. Section 1269b is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1278 (amended). Form of undertaking

SEC. _____. Section 1278 of the Penal Code is amended to read:

1278. Bail is put in by a written undertaking, executed by two sufficient sureties (with or without the defendant, in the discretion of the magistrate), and acknowledged before the court or magistrate, in substantially the following form:

An order having been made on the _____ day of _____, 19____, by _____, a judge of the Justice _____ Court of _____ County (~~or as the case may be~~), that _____ be held to answer upon a charge of (stating briefly the nature of the offense), upon which he or she has been admitted to bail in the sum of _____ dollars (\$_____); we, _____ and _____, of _____ (stating their place of residence and occupation), hereby undertake that the above-named _____ will appear and answer any charge in any accusatory pleading based upon the acts supporting the charge above mentioned, in whatever court it may be prosecuted, and will at all times hold himself or herself amenable to the orders and process of the court, and if convicted, will appear for pronouncement of judgment or grant of probation, or if he or she fails to perform either of these conditions, that we will pay to the people of the State of California the sum of _____ dollars (\$_____) (inserting the sum in which the defendant is admitted to bail). If the forfeiture of this bond be ordered by the court, judgment may be summarily made and entered forthwith against the said (naming the sureties), and the defendant if he or she be a party to the bond, for the amount of their respective undertakings herein, as provided by Sections 1305 and 1306.

Comment. Section 1278 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1281a (amended). Bail in felony cases

SEC. _____. Section 1281a of the Penal Code is amended to read:

1281a. A judge of any municipal or justice court within the county, wherein a cause is pending against any person charged with a felony, may justify and approve bail in the said cause, and may execute an order for the release of the defendant which shall authorize the discharge of the defendant by any officer having said defendant in custody.

Comment. Section 1281a is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1309 (repealed). Unclaimed deposit

SEC. _____. Section 1309 of the Penal Code is repealed.

~~1309. Whenever any money has been or is deposited as bail in any criminal action or proceeding, including but not limited to any proceeding in habeas corpus, in a superior court either before or after the effective date of this code section and it is made to appear to the satisfaction of the court or judge by affidavit or by testimony in open court that more than three years have elapsed since the exoneration or release of said bail and that said money cannot be paid out because the owner thereof cannot be found, the court or judge must direct that such money shall be deposited in the general fund of the county.~~

Comment. Former Section 1309 is not continued. It is superseded (and was impliedly repealed by) Section 1463 *et seq.*

Penal Code § 1327 (amended). Form of subpoena

SEC. _____. Section 1327 of the Penal Code is amended to read:

1327. A subpoena authorized by Section 1326 shall be substantially in the following form:

The people of the State of California to A.B.:

You are commanded to appear before C.D., a judge of the Justice _____ Court of _____ Judicial District, in _____ County (or as the case may be), at (naming the place), on (stating the day and hour), as a witness in a criminal action prosecuted by the people of the State of California against E.F.

Given under my hand this _____ day of _____, A.D. 19___. G.H., Judge of the Justice _____ Court (or “J.K., District Attorney,” or “J.K., District Attorney Investigator,”

or “D.E., Public Defender,” or “D.E., Public Defender Investigator,” or “F.G., Defense Counsel,” or “By order of the court, L.M., Clerk,” or as the case may be). If books, papers, or documents are required, a direction to the following effect must be contained in the subpoena: “And you are required, also, to bring with you the following” (describing intelligibly the books, papers, or documents required).

Comment. Section 1327 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1368.1 (amended). Demurrers and other motions

SEC. _____. Section 1368.1 of the Penal Code is amended to read:

1368.1. (a) If the action is on a complaint charging a felony, proceedings to determine mental competence shall be held prior to the filing of an information unless the counsel for the defendant requests a preliminary examination under the provisions of Section 859b. At such preliminary examination, counsel for the defendant may (1) demur, (2) move to dismiss the complaint on the ground that there is not reasonable cause to believe that a felony has been committed and that the defendant is guilty thereof, or (3) make a motion under Section 1538.5.

(b) If the action is on a complaint charging a misdemeanor, counsel for the defendant may (1) demur, (2) move to dismiss the complaint on the ground that there is not reasonable cause to believe that a public offense has been committed and that the defendant is guilty thereof, or (3) make a motion under Section 1538.5.

(c) In ruling upon any demurrer or motion described in subdivision (a) or (b), the court may hear any matter which is capable of fair determination without the personal participation of the defendant.

(d) ~~In any case originating in a municipal or justice court, any A~~ demurrer or motion described in subdivision (a) or (b) shall be made in the court having jurisdiction over the complaint. The defendant shall not be certified ~~to the superior court by the~~

~~municipal or justice court~~ until the demurrer or motion has been decided.

Comment. Section 1368.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1382 (amended). Time for bringing case to trial

SEC. _____. Section 1382 of the Penal Code is amended to read:

1382. (a) The court, unless good cause to the contrary is shown, shall order the action to be dismissed in the following cases:

(1) When a person has been held to answer for a public offense and an information is not filed against that person within 15 days.

(2) ~~When~~ *In a felony case, when* a defendant is not brought to trial ~~in a superior court~~ within 60 days after the finding of the indictment, filing of the information, or reinstatement of criminal proceedings pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2, or, in case the cause is to be tried again following a mistrial, an order granting a new trial from which an appeal is not taken, or an appeal from the superior court, within 60 days after the mistrial has been declared, after entry of the order granting the new trial, or after the filing of the remittitur in the trial court, or after the issuance of a writ or order which, in effect, grants a new trial, within 60 days after notice of the writ or order is filed in the trial court and served upon the prosecuting attorney, or within 90 days after notice of the writ or order is filed in the trial court and served upon the prosecuting attorney in any case where the district attorney chooses to resubmit the case for a preliminary examination after an appeal or the issuance of a writ reversing a judgment of conviction upon a plea of guilty prior to a preliminary hearing ~~in a municipal or justice court~~. However, an action shall not be dismissed under this paragraph if either of the following circumstances exist:

(A) The defendant enters a general waiver of the 60-day trial requirement. A general waiver of the 60-day trial requirement entitles the superior court to set or continue a trial date without the sanction of dismissal should the case fail to proceed on the date set for trial. If the defendant, after proper notice to all parties, later

withdraws his or her waiver in the superior court, the defendant shall be brought to trial within 60 days of the date of that withdrawal. If a general time waiver is not expressly entered, subparagraph (B) shall apply.

(B) The defendant requests or consents to the setting of a trial date beyond the 60-day period. Whenever a case is set for trial beyond the 60-day period by request or consent, expressed or implied, of the defendant without a general waiver, the defendant shall be brought to trial on the date set for trial or within 10 days thereafter.

Whenever a case is set for trial after a defendant enters either a general waiver as to the 60-day trial requirement or requests or consents, expressed or implied, to the setting of a trial date beyond the 60-day period pursuant to this paragraph, the court may not grant a motion of the defendant to vacate the date set for trial and to set an earlier trial date unless all parties are properly noticed and the court finds good cause for granting that motion.

(3) Regardless of when the complaint is filed, when a defendant in a ~~misdemeanor case in an inferior court~~ *misdemeanor or infraction case* is not brought to trial within 30 days after he or she is arraigned or enters his or her plea, whichever occurs later, if the defendant is in custody at the time of arraignment or plea, whichever occurs later, or in all other cases, within 45 days after the defendant's arraignment or entry of the plea, whichever occurs later, or in case the cause is to be tried again following a mistrial, an order granting a new trial from which no appeal is taken, or an appeal from ~~the inferior court~~ *a judgment in a misdemeanor or infraction case*, within 30 days after the mistrial has been declared, after entry of the order granting the new trial, or after the remittitur is filed in the trial court ~~or, if the new trial is to be held in the superior court, within 30 days after the judgment on appeal becomes final~~. However, an action shall not be dismissed under this subdivision if any of the following circumstances exist:

(A) The defendant enters a general waiver of the 30-day or 45-day trial requirement. A general waiver of the 30-day or 45-day trial requirement entitles the ~~inferior~~ court to set or continue a trial date without the sanction of dismissal should the case fail to

proceed on the date set for trial. If the defendant, after proper notice to all parties, later withdraws his or her waiver ~~in the inferior court~~, the defendant shall be brought to trial within 30 days of the date of that withdrawal. If a general time waiver is not expressly entered, subparagraph (B) shall apply.

(B) The defendant requests or consents to the setting of a trial date beyond the 30-day or 45-day period. In the absence of an express general time waiver from the defendant, the ~~inferior court~~ shall set a trial date. Whenever a case is set for trial beyond the 30-day or 45-day period by request or consent, expressed or implied, of the defendant without a general waiver, the defendant shall be brought to trial on the date set for trial or within 10 days thereafter.

(C) The defendant in a misdemeanor case has been ordered to appear on a case set for hearing prior to trial, but the defendant fails to appear on that date and a bench warrant is issued, or the case is not tried on the date set for trial because of the defendant's neglect or failure to appear, in which case the defendant shall be deemed to have been arraigned within the meaning of this subdivision on the date of his or her subsequent arraignment on a bench warrant or his or her submission to the court.

(b) Whenever a defendant has been ordered to appear in superior court on a *felony* case set for trial or set for a hearing prior to trial *after being held to answer*, if the defendant fails to appear on that date and a bench warrant is issued, the defendant shall be brought to trial within 60 days after the defendant next appears in the superior court unless a trial date previously had been set which is beyond that 60-day period.

(c) If the defendant is not represented by counsel, the defendant shall not be deemed under this section to have consented to the date for the defendant's trial unless the court has explained to the defendant his or her rights under this section and the effect of his or her consent.

Comment. Section 1382 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1424 (amended). Motion to disqualify district attorney

SEC. _____. Section 1424 of the Penal Code is amended to read:

1424. (a)(1) Notice of a motion to disqualify a district attorney from performing an authorized duty shall be served on the district attorney and the Attorney General at least 10 days before the motion is heard. The notice of motion shall set forth a statement of the facts relevant to the claimed disqualification and the legal authorities relied upon by the moving party. The Attorney General may appear at the hearing on the motion and may file with the court hearing the motion a written opinion on the disqualification issue. The motion may not be granted unless the evidence shows that a conflict of interest exists that would render it unlikely that the defendant would receive a fair trial. An order recusing the district attorney from any proceeding may be appealed by the district attorney or the Attorney General. The order recusing the district attorney shall be stayed pending any appeal authorized by this section.

(2) An appeal from an order of recusal ~~from a superior court or~~ from a case involving a charge punishable as a felony shall be made pursuant to Chapter 1 (commencing with Section 1235) of Title 9, regardless of the court in which the order is made. An appeal from an order of recusal in a misdemeanor case shall be made pursuant to Chapter 2 (commencing with Section 1466) of Title 11, *regardless of the court in which the order is made*.

(b)(1) Notice of a motion to disqualify a city attorney from performing an authorized duty involving a criminal matter shall be served on the city attorney and the district attorney at least 10 days before the motion is heard. The notice of motion shall set forth a statement of the facts relevant to the claimed disqualification and the legal authorities relied on by the moving party. The district attorney may appear at the hearing on the motion and may file with the court hearing the motion a written opinion on the disqualification issue. The motion may not be granted unless the evidence shows that a conflict of interest exists that would render it unlikely that the defendant would receive a fair trial.

(2) An order recusing the city attorney from a proceeding may be appealed by the city attorney or the district attorney. The order

recusing the city attorney shall be stayed pending an appeal authorized by this section. An appeal from an order of disqualification in a misdemeanor case shall be made pursuant to Chapter 2 (commencing with Section 1466) of Title 11.

(c) Motions to disqualify the city attorney and the district attorney shall be separately made.

Comment. Section 1424 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Heading of Title 11 (commencing with Section 1427) (amended)

SEC. _____. The heading of Title 11 (commencing with Section 1427) of Part 2 of the Penal Code is amended to read:

TITLE 11. PROCEEDINGS IN INFERIOR COURTS MISDEMEANOR AND INFRACTION CASES AND APPEALS FROM SUCH COURTS CASES

Comment. The heading of Title 11 (commencing with Section 1427) of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Heading of Chapter 1 (commencing with Section 1427) (amended)

SEC. _____. The heading of Chapter 1 (commencing with Section 1427) of Title 11 of Part 2 of the Penal Code is amended to read:

CHAPTER 1. PROCEEDINGS IN INFERIOR COURTS MISDEMEANOR AND INFRACTION CASES

Comment. The heading of Chapter 1 (commencing with Section 1427) of Title 11 of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1427 (amended). Arrest warrant

SEC. _____. Section 1427 of the Penal Code is amended to read:

1427. (a) When a complaint is presented to a judge ~~of an inferior court of the commission of a public offense in a misdemeanor or infraction case~~ appearing to be triable in ~~his~~ *the judge's* court, he

the judge must, if satisfied therefrom that the offense complained of has been committed and that there is reasonable ground to believe that the defendant has committed it, issue a warrant, for the arrest of the defendant.

(b) Such warrant of arrest and proceedings upon it shall be in conformity to the provisions of this code regarding warrants of arrest, and it may be in the following form:

County of _____

The people of the State of California, to any peace officer in this state:

Complaint upon oath having been this day made before me that the offense of _____ (designating it generally) has been committed and accusing _____ (name of defendant) thereof you are therefore commanded forthwith to arrest the above-named defendant and bring ~~him~~ *the defendant* forthwith before the _____ court of _____ (stating full title of court) at _____ (naming place).

Witness my hand and the seal of said court this _____ day of _____, 19__.

(Signed).

Judge of said court

If it appears that the offense complained of has been committed by a corporation, no warrant of arrest shall issue, but the judge must issue a summons substantially in the form prescribed in Section 1391. Such summons must be served at the time and in the manner designated in Section 1392 except that if the offense complained of is a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, such summons may be served by deposit by the clerk of the court in the United States mail of an envelope enclosing the summons, which envelope shall be addressed to a person authorized to accept service of legal process on behalf of the defendant, and which envelope shall be mailed by registered mail or certified mail with a return receipt requested. Promptly upon such mailing, the clerk of the court shall execute a certificate of such mailing and place it in the file of the court for that case. At the time stated in the summons the

corporation may appear by counsel and answer the complaint, except that in the case of misdemeanors arising from operation of motor vehicles, or of infractions arising from operation of motor vehicles, a corporation may appear by its president, vice president, secretary or managing agent for the purpose of entering a plea of guilty. If it does not appear, a plea of not guilty shall be entered, and the same proceedings had therein as in other cases.

Comment. Section 1427 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1428 (amended). Docket

SEC. _____. Section 1428 of the Penal Code is amended to read:

1428. A docket must be kept ~~by the judge or clerk of each justice court and~~ by the clerk of each municipal court having jurisdiction of criminal actions or proceedings, in which must be entered the title of each criminal action or proceeding and under each title all the orders and proceedings in such action or proceeding. Wherever by any other section of this code made applicable to such courts an entry of any judgment, order or other proceeding in the minutes is required, an entry thereof in the docket shall be made and shall be deemed a sufficient entry in the minutes for all purposes.

Comment. Section 1428 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The provision applies only to municipal court dockets.

Penal Code § 1429 (amended). Misdemeanor plea

SEC. _____. Section 1429 of the Penal Code is amended to read:

1429. ~~In the case of a misdemeanor triable in any inferior court a~~ *misdemeanor case* the plea of the defendant may be made by said defendant or by his *defendant's* counsel. If such defendant pleads guilty, the court may, before entering such plea or pronouncing judgment, examine witnesses to ascertain the gravity of the offense committed; and if it appear to the court that a higher offense has been committed than the offense charged in the complaint, the court may order the defendant to be committed or admitted to bail, to answer any indictment which may be found against ~~him~~ *the*

defendant by the grand jury, or any complaint which may be filed charging ~~him~~ *the defendant* with such higher offense.

Comment. Section 1429 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1429.5 (amended). Procedure in case of plea not guilty by reason of insanity

SEC. _____. Section 1429.5 of the Penal Code is amended to read:

1429.5. When a defendant pleads not guilty by reason of insanity to a misdemeanor charge *in a municipal court*, and also joins with it another plea or pleas, ~~he~~ *the defendant* shall first be tried as if ~~he~~ *the defendant* had entered such other plea or pleas only, and in such trial ~~he~~ *the defendant* shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the defendant shall be found guilty, or if the defendant pleads only not guilty by reason of insanity, then the defendant shall be certified to the superior court of the county for prompt trial to determine the question whether the defendant was sane or insane at the time the offense was committed. The superior court shall proceed as provided in Sections 1026 and 1027. If the verdict or finding be that the defendant was sane at the time the offense was committed the superior court shall remand the defendant to the court from which ~~he~~ *the defendant* was certified which court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed the superior court shall proceed as provided in Section 1026.

Comment. Section 1429.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The procedure in this section — which requires that the issue of insanity be tried in the superior court — has relevance only in a county with a municipal court. One consequence of unification is that under this section misdemeanor cases in a unified court will receive the same treatment as felony cases, resulting in a discretionary rather than automatic new jury.

Penal Code § 1447 (amended). Malicious prosecution

SEC. _____. Section 1447 of the Penal Code is amended to read:

1447. When the defendant is acquitted ~~in an inferior court~~ *in a misdemeanor or infraction case*, if the court certify in the minutes that the prosecution was malicious and without probable cause, the court may order the complainant to pay the costs of the action, or to give an undertaking to pay the costs within 30 days after the trial.

Comment. Section 1447 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1449 (amended). Pronouncement of judgment

SEC. _____. Section 1449 of the Penal Code is amended to read:

1449. In ~~inferior courts~~ *a misdemeanor or infraction case*, after a plea, finding, or verdict of guilty, or after a finding or verdict against the defendant on a plea of former conviction or acquittal, or once in jeopardy, the court shall appoint a time for pronouncing judgment which shall be not less than six hours, nor more than five days, after the verdict or plea of guilty, unless the defendant waives the postponement. The court may extend the time for not more than 10 days for the purpose of hearing or determining any motion for a new trial, or in arrest of judgment. The court also may extend the time for not more than 20 judicial days if probation is considered. Upon request of the defendant or the probation officer, that time may be further extended for not more than 90 additional days. In case of postponement, the court may hold the defendant to bail to appear for judgment. If, in the opinion of the court there is a reasonable ground for believing a defendant insane, the court may extend the time of pronouncing judgment and may commit the defendant to custody until the question of insanity has been heard and determined.

If the defendant is a veteran who was discharged from service for mental disability, upon his or her request, his or her case shall be referred to the probation officer, who shall secure a military medical history of the defendant and present it to the court together with a recommendation for or against probation.

Comment. Section 1449 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1458 (amended). Bail undertaking by personal sureties

SEC. _____. Section 1458 of the Penal Code is amended to read:

1458. The provisions of this code relative to bail are applicable to bail in *misdemeanor or infraction* cases ~~triable in inferior court~~. The defendant, at any time after his arrest and before conviction, may be admitted to bail. The undertaking of bail in such a case shall be in substantially the following form:

A complaint having been filed on the _____ day of _____, 19__, in the _____ Court of _____ County of _____ (stating title and location of court) charging _____ (naming defendant) as defendant with the crime of _____ (designating it generally) and ~~he~~ *the defendant* having been admitted to bail in the sum of _____ dollars (\$_____) (stating amount);

We, _____ and _____, of _____ (stating their places of residence and occupation), hereby undertake that the above-named defendant will appear and answer any charge in any accusatory pleading based upon the acts supporting the complaint above mentioned and all duly authorized amendments thereof, in whatever court it may be prosecuted, and will at all times hold himself *or herself* amenable to the orders and process of the court, and, if convicted, will appear for pronouncement of judgment or grant of probation or if ~~he~~ *the defendant* fails to perform either of these conditions, that we will pay to the people of the State of California the sum of _____ dollars (\$_____) (inserting the sum in which the defendant is admitted to bail). If the forfeiture of this bond is ordered by the court, judgment may be summarily made and entered forthwith against the said _____ (naming the sureties and the defendant if ~~he~~ *the defendant* is a party to the bond) for the amount of their respective undertakings herein, as provided by Sections 1305 and 1306 of the California Penal Code.

Comment. Section 1458 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Cf. Section 691 & Comment.

Penal Code § 1459 (amended). Bail undertaking by admitted surety insurers

SEC. _____. Section 1459 of the Penal Code is amended to read:

1459. Undertakings of bail filed in inferior courts by admitted surety insurers shall meet all other requirements of law and the obligation of the insurer shall be in the following form *except to the extent a different form is otherwise provided by statute*:

_____ (stating the title and the location of the court).

Defendant _____ (stating the name of the defendant) having been admitted to bail in the sum of _____ dollars (\$_____) (stating the amount of bail fixed) and ordered to appear in the above-entitled court on _____, 19__ (stating the date for appearance in court), on _____ (stating only the word “misdemeanor” or the word “felony”) charge/s;

Now, the _____ (stating the name of admitted surety insurer and state of incorporation) hereby undertakes that the above-named defendant will appear in the above-named court on the date above set forth to answer any charge in any accusatory pleading based upon the acts supporting the complaint filed against him/her and all duly authorized amendments thereof, in whatever court it may be prosecuted, and will at all times hold him/herself amenable to the orders and process of the court and, if convicted, will appear for pronouncement of judgment or grant of probation or if he/she fails to perform either of these conditions, that the _____ (stating the name of admitted surety insurer and state of incorporation) will pay to the people of the State of California the sum of _____ dollars (\$_____) (stating the amount of the undertaking of the admitted surety insurer).

If the forfeiture of this bond be ordered by the court, judgment may be summarily made and entered forthwith against the said _____ (stating the name of admitted surety insurer and state of incorporation) for the amount of its undertaking herein, as provided by Sections 1305 and 1306 of the California Penal Code.

(Stating the name of admitted surety insurer and
state of incorporation),
(Signature)

By _____
Attorney in fact
(Corporate seal)

(Jurat of notary public or
other officer authorized
to administer oaths.)

Comment. Section 1459 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

**Penal Code § 1462 (amended). Municipal and superior court
jurisdiction**

SEC. _____. Section 1462 of the Penal Code is amended to read:

1462. (a) Each municipal ~~and justice~~ court shall have jurisdiction in all criminal cases amounting to misdemeanor, where the offense charged was committed within the county in which the municipal ~~or justice~~ court is established except those of which the juvenile court is given jurisdiction and those of which other courts are given exclusive jurisdiction. Each municipal ~~and justice~~ court shall have exclusive jurisdiction in all cases involving the violation of ordinances of cities or towns situated within the district in which the court is established.

(b) Each municipal ~~and justice~~ court shall have jurisdiction in all noncapital criminal cases to receive a plea of guilty or nolo contendere, appoint a time for pronouncing judgment under Section 859a, pronounce judgment, and refer the case to the probation officer if eligible for probation.

(c) The superior courts shall have jurisdiction in all misdemeanor criminal cases to receive a plea of guilty or nolo contendere, appoint a time for pronouncing judgment, and pronounce judgment.

(d) The superior court in a county in which there is no municipal court has the jurisdiction provided in subdivisions (a) and (b).

Comment. Section 1462 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The revision of this and other statutes to accommodate unification of the municipal and superior courts in a county is intended generally to preserve existing procedures for criminal cases by replacing references to superior court criminal cases with references to felony cases, and by replacing references to municipal court criminal cases with references to misdemeanor and felony cases.

The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See Welf. & Inst. Code §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 1462.1 (repealed). Concurrent jurisdiction of municipal and justice courts

SEC. _____. Section 1462.1 of the Penal Code is repealed.

~~1462.1. The jurisdiction of the municipal and justice courts is the same and concurrent.~~

Comment. Section 1462.1 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1462.2 (amended). Place of misdemeanor trial

SEC. _____. Section 1462.2 of the Penal Code is amended to read:

1462.2. Except as otherwise provided in the Vehicle Code, the proper court for the trial of criminal cases amounting to misdemeanor shall be determined as follows: Any municipal or justice court, having jurisdiction of the subject matter of the case, established in the county within which the offense charged was committed, *or the superior court in a county in which there is no municipal court*, is the proper court for the trial of the case; ~~otherwise, the court having jurisdiction of the subject matter, nearest to the place where the offense was committed, is the proper court for the trial of the case.~~

If an action or proceeding is commenced in a court having jurisdiction of the subject matter thereof other than the court herein designated as the proper court for the trial, the action may, notwithstanding, be tried in the court where commenced, unless the defendant, at the time ~~he pleads~~ *of pleading*, requests an order transferring the action or proceeding to the proper court. If after such request it appears that the action or proceeding was not commenced in the proper court, the court shall order the action or proceeding transferred to the proper court. The judge must, at the time of arraignment, inform the defendant of ~~his~~ *the* right to be tried in the ~~district~~ *county* wherein the offense was committed.

Comment. Section 1462.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1463 (amended). Distributions

SEC. _____. Section 1463 of the Penal Code is amended to read:

1463. All fines and forfeitures imposed and collected for crimes shall be distributed in accordance with Section 1463.001.

The following definitions shall apply to terms used in this chapter:

(a) “Arrest” means any law enforcement action, including issuance of a notice to appear or notice of violation, which results in a criminal charge.

(b) “City” includes any city, city and county, district, including any enterprise special district, community service district, or community service area engaged in police protection activities as reported to the Controller for inclusion in the 1989-90 edition of the Financial Transactions Report Concerning Special Districts under the heading of Police Protection and Public Safety, authority, or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear or notices of violation which may be filed in court.

(c) “City arrest” means an arrest by an employee of a city, or by a California Highway Patrol officer within the limits of a city.

(d) “County” means the county in which the arrest took place.

(e) “County arrest” means an arrest by a California Highway Patrol officer outside the limits of a city, or any arrest by a county officer or by any other state officer.

(f) “Court” means the superior, ~~municipal, or justice~~ *or municipal* court or a juvenile forum established under Section 257 of the Welfare and Institutions Code, in which the case arising from the arrest is filed.

(g) “Division of moneys” means an allocation of base fine proceeds between agencies as required by statute including, but not limited to, Sections 1463.003, 1463.9, 1463.23, 1463.26, and Sections 13001, 13002, and 13003 of the Fish and Game Code, and Section 11502 of the Health and Safety Code.

(h) “Offense” means any infraction, misdemeanor, or felony, and any act by a juvenile leading to an order to pay a financial sanction by reason of the act being defined as an infraction, misdemeanor, or felony, whether defined in this or any other code, except any parking offense as defined in subdivision (i).

(i) “Parking offense” means any offense charged pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, including registration and equipment offenses included on a notice of parking violation.

(j) “Penalty allocation” means the deposit of a specified part of moneys to offset designated processing costs, as provided by Section 1463.16 and by Section 68090.8 of the Government Code.

(k) “Total parking penalty” means the total sum to be collected for a parking offense, whether as fine, forfeiture of bail, or payment of penalty to the Department of Motor Vehicles. It may include the following components:

(1) The base parking penalty as established pursuant to Section 40203.5 of the Vehicle Code.

(2) The Department of Motor Vehicles (DMV) fees added upon the placement of a hold pursuant to Section 40220 of the Vehicle Code.

(3) The surcharges required by Section 76000 of the Government Code.

(4) The notice penalty added to the base parking penalty when a notice of delinquent parking violations is given.

(l) “Total fine or forfeiture” means the total sum to be collected upon a conviction, or the total amount of bail forfeited or deposited as cash bail subject to forfeiture. It may include, but is not limited to, the following components as specified for the particular offense:

(1) The “base fine” upon which the state penalty and additional county penalty is calculated.

(2) The “county penalty” required by Section 76000 of the Government Code.

(3) The “service charge” permitted by Section 853.7 of the Penal Code and Sections 40508.5 and 41103.5 of the Vehicle Code.

(4) The “special penalty” dedicated for blood alcohol analysis, alcohol program services, traumatic brain injury research, and similar purposes.

(5) The “state penalty” required by Section 1464.

Comment. Section 1463 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1463.1 (amended). Moneys deposited as bail

SEC. _____. Section 1463.1 of the Penal Code is amended to read:

1463.1. Notwithstanding the provisions of Section 1463, any municipal court ~~or justice court~~ may elect, with prior approval of the county auditor, to deposit in a bank account pursuant to Section 53679 of the Government Code, all moneys deposited as bail with such court, or with the clerk thereof.

All moneys received and disbursed through such bank account shall be properly and uniformly accounted for under such procedures as the State Controller may deem necessary.

Comment. Section 1463.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1463.22 (amended). Moneys deposited with county

SEC. _____. Section 1463.22 of the Penal Code is amended to read:

1463.22. (a) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents (\$17.50) for each conviction of a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and allocated to defray costs of municipal and ~~justice~~ *superior* courts incurred in administering Sections 16028, 16030, and 16031 of the Vehicle Code. Any moneys in the special account in excess of the amount required to defray those costs shall be redeposited and distributed by the county treasurer pursuant to Section 1463.

(b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, three dollars (\$3) for each conviction for a violation of Section 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a

special account, and shall be transmitted once per month to the Controller for deposit in the Motor Vehicle Account in the State Transportation Fund. These moneys shall be available, when appropriated, to defray the administrative costs incurred by the Department of Motor Vehicles pursuant to Sections 16031, 16032, 16034, and 16035 of the Vehicle Code. It is the intent of this subdivision to provide sufficient revenues to pay for all of the department's costs in administering those sections of the Vehicle Code.

(c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars (\$10) upon the conviction of, or upon the forfeiture of bail from, any person arrested or notified for a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and shall be transmitted monthly to the Controller for deposit in the General Fund.

Comment. Section 1463.22 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Chapter 2 (commencing with Section 1466) (amended)

SEC. _____. The heading of Chapter 2 (commencing with Section 1466) of Title 11 of Part 2 of the Penal Code is amended to read:

CHAPTER 2. APPEALS FROM INFERIOR COURT IN MISDEMEANOR AND INFRACTION CASES

Comment. The heading of Chapter 2 (commencing with Section 1466) of Title 11 of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1466 (amended). Appeals

SEC. _____. Section 1466 of the Penal Code is amended to read:

1466. (a) An appeal may be taken from a judgment or order of an inferior court, in an infraction or misdemeanor case, to the appellate division of the superior court of the county in which the inferior court from which the appeal is taken is located, in the following cases:

(1) By the people:

(A) From an order recusing the district attorney or city attorney pursuant to Section 1424.

(B) From an order or judgment dismissing or otherwise terminating the action before the defendant has been placed in jeopardy or where the defendant has waived jeopardy.

(C) From a judgment for the defendant upon the sustaining of a demurrer.

(D) From an order granting a new trial.

(E) From an order arresting judgment.

(F) From any order made after judgment affecting the substantial rights of the people.

(G) From the imposition of an unlawful sentence, whether or not the court suspends the execution of sentence. As used in this subparagraph, “unlawful sentence” means the imposition of a sentence not authorized by law or the imposition of a sentence based upon an unlawful order of the court that strikes or otherwise modifies the effect of an enhancement or prior conviction. A defendant shall have the right to counsel in the people’s appeal of an unlawful sentence under the same circumstances that he or she would have a right to counsel under subdivision (a) of Section 1238.

(H) Nothing in this section shall be construed to authorize an appeal from an order granting probation. Instead, the people may seek appellate review of any grant of probation, whether or not the court imposes sentence, by means of a petition for a writ of mandate or prohibition that is filed within 60 days after probation is granted. The review of any grant of probation shall include review of any order underlying the grant of probation.

(2) By the defendant:

(A) From a final judgment of conviction. A sentence, an order granting probation, a conviction in a case in which before final judgment the defendant is committed for insanity or is given an indeterminate commitment as a mentally disordered sex offender, or the conviction of a defendant committed for controlled substance addiction shall be deemed to be a final judgment within the meaning of this section. Upon appeal from a final judgment or

an order granting probation the court may review any order denying a motion for a new trial.

(B) From any order made after judgment affecting his or her substantial rights.

~~(b) An appeal from the judgment or appealable order of an inferior court in a felony case is to the court of appeal for the district in which the court is located.~~

Comment. Section 1466 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. Appeals in misdemeanor and infraction cases lie to the appellate division of the superior court. Appeals in felony cases lie to the court of appeal, regardless of whether the appeal is from the superior court, the municipal court, or the action of a magistrate. See Section 1235 & Comment. *Cf.* Cal. Const. art. VI, § 11(a) (court of appeal appellate jurisdiction when superior courts have original jurisdiction and in other causes provided by statute).

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See Welf. & Inst. Code §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 1468 (amended). Appeals to appellate division

SEC. _____. Section 1468 of the Penal Code is amended to read:

1468. Appeals to the *appellate divisions* of superior courts shall be taken, heard and determined, the decisions thereon shall be remitted to the *inferior* courts *from which the appeals are taken*, and the records on such appeals shall be made up and filed in such time and manner as shall be prescribed in rules adopted by the Judicial Council.

Comment. Section 1468 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. In a county in which there is no municipal court, the appeal will be remitted to the superior court.

Heading of Chapter 3 (commencing with Section 1471) (amended)

SEC. _____. The heading of Chapter 3 (commencing with Section 1471) of Title 11 of Part 2 of the Penal Code is amended to read:

CHAPTER 3. TRANSFER OF MUNICIPAL AND JUSTICE COURT *MISDEMEANOR AND INFRACTION* APPEALS

Comment. The heading of Chapter 3 (commencing with Section 1471) of Title 11 of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1471 (amended). Transfer to court of appeal

SEC. _____. Section 1471 of the Penal Code is amended to read:

1471. A court of appeal may order any case on appeal ~~within the original jurisdiction of the municipal and justice courts to a superior court~~ in its district transferred to it for hearing and decision as provided by rules of the Judicial Council when the superior court certifies, or the court of appeal determines, that such transfer appears necessary to secure uniformity of decision or to settle important questions of law.

~~No case in which there is a right on appeal to a trial anew in the superior court shall be transferred pursuant to this section before a decision in such case becomes final therein.~~

A court to which any such case is transferred shall have similar power to review any matter and make orders and judgments as the *appellate division of the superior court* by statute would have in such case, except as otherwise expressly provided ~~and except that if the case was tried anew in the superior court, the reviewing court shall have similar power to review any matter and make orders and judgments as it has by statute in a case within the original jurisdiction of the superior court.~~

Comment. Section 1471 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1538.5 (amended). Motion to return property or suppress evidence

SEC. _____. Section 1538.5 of the Penal Code is amended to read:

1538.5. (a)(1) A defendant may move for the return of property or to suppress as evidence any tangible or intangible thing obtained as a result of a search or seizure on either of the following grounds:

(A) The search or seizure without a warrant was unreasonable.

(B) The search or seizure with a warrant was unreasonable because any of the following apply:

(i) The warrant is insufficient on its face.

(ii) The property or evidence obtained is not that described in the warrant.

(iii) There was not probable cause for the issuance of the warrant.

(iv) The method of execution of the warrant violated federal or state constitutional standards.

(v) There was any other violation of federal or state constitutional standards.

(2) A motion pursuant to paragraph (1) shall be made in writing and accompanied by a memorandum of points and authorities and proof of service. The memorandum shall list the specific items of property or evidence sought to be returned or suppressed and shall set forth the factual basis and the legal authorities that demonstrate why the motion should be granted.

(b) When consistent with the procedures set forth in this section and subject to the provisions of Section 170 to 170.6, inclusive, of the Code of Civil Procedure, the motion should first be heard by the magistrate who issued the search warrant if there is a warrant.

(c) Whenever a search or seizure motion is made in the municipal or superior court as provided in this section, the judge or magistrate shall receive evidence on any issue of fact necessary to determine the motion.

(d) If a search or seizure motion is granted pursuant to the proceedings authorized by this section, the property or evidence shall not be admissible against the movant at any trial or other hearing unless further proceedings authorized by this section, Section 871.5, 1238, or 1466 are utilized by the people.

(e) If a search or seizure motion is granted at a trial, the property shall be returned upon order of the court unless it is otherwise subject to lawful detention. If the motion is granted at a special hearing, the property shall be returned upon order of the court only if, after the conclusion of any further proceedings authorized by this section, Section 1238 or 1466, the property is not subject to

lawful detention or if the time for initiating the proceedings has expired, whichever occurs last. If the motion is granted at a preliminary hearing, the property shall be returned upon order of court after 10 days unless the property is otherwise subject to lawful detention or unless, within that time, further proceedings authorized by this section, Section 871.5 or 1238 are utilized; if they are utilized, the property shall be returned only if, after the conclusion of the proceedings, the property is no longer subject to lawful detention.

(f)(1) If the property or evidence relates to a felony offense initiated by a complaint, the motion shall be made in the superior court only upon filing of an information, except that the defendant may make the motion at the preliminary hearing in the municipal court *or in the superior court in a county in which there is no municipal court*, but the motion ~~in the municipal court~~ shall be restricted to evidence sought to be introduced by the people at the preliminary hearing.

(2) The motion may be made at the preliminary examination only if at least five court days before the date set for the preliminary examination the defendant has filed and personally served on the people a written motion accompanied by a memorandum of points and authorities as required by paragraph (2) of subdivision (a). At the preliminary examination, the magistrate may grant the defendant a continuance for the purpose of filing the motion and serving the motion upon the people, at least five court days before resumption of the examination, upon a showing that the defendant or his or her attorney of record was not aware of the evidence or was not aware of the grounds for suppression before the preliminary examination.

(3) Any written response by the people to the motion described in paragraph (2) shall be filed with the court and personally served on the defendant or his or her attorney of record at least two court days prior to the hearing at which the motion is to be made.

(g) If the property or evidence relates to a misdemeanor complaint, the motion shall be made in the municipal court *or in the superior court in a county in which there is no municipal court* before trial and heard prior to trial at a special hearing relating to

the validity of the search or seizure. If the property or evidence relates to a misdemeanor filed together with a felony, the procedure provided for a felony in this section and Sections 1238 and 1539 shall be applicable.

(h) If, prior to the trial of a felony or misdemeanor, opportunity for this motion did not exist or the defendant was not aware of the grounds for the motion, the defendant shall have the right to make this motion during the course of trial in the municipal or superior court.

(i) If the property or evidence obtained relates to a felony offense initiated by complaint and the defendant was held to answer at the preliminary hearing, or if the property or evidence relates to a felony offense initiated by indictment, the defendant shall have the right to renew or make the motion in the superior court at a special hearing relating to the validity of the search or seizure which shall be heard prior to trial and at least 10 court days after notice to the people, unless the people are willing to waive a portion of this time. Any written response by the people to the motion shall be filed with the court and personally served on the defendant or his or her attorney of record at least two court days prior to the hearing, unless the defendant is willing to waive a portion of this time. If the offense was initiated by indictment or if the offense was initiated by complaint and no motion was made at the preliminary hearing, the defendant shall have the right to fully litigate the validity of a search or seizure on the basis of the evidence presented at a special hearing. If the motion was made at the preliminary hearing, unless otherwise agreed to by all parties, evidence presented at the special hearing shall be limited to the transcript of the preliminary hearing and to evidence that could not reasonably have been presented at the preliminary hearing, except that the people may recall witnesses who testified at the preliminary hearing. If the people object to the presentation of evidence at the special hearing on the grounds that the evidence could reasonably have been presented at the preliminary hearing, the defendant shall be entitled to an in camera hearing to determine that issue. The superior court shall base its ruling on all evidence presented at the special hearing and on the transcript of the

preliminary hearing, and the findings of the magistrate shall be binding on the superior court as to evidence or property not affected by evidence presented at the special hearing. After the special hearing is held in the superior court, any review thereafter desired by the defendant prior to trial shall be by means of an extraordinary writ of mandate or prohibition filed within 30 days after the denial of his or her motion at the special hearing.

(j) If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return of the property or suppression of the evidence at the preliminary hearing is granted, and if the defendant is not held to answer at the preliminary hearing, the people may file a new complaint or seek an indictment after the preliminary hearing, and the ruling at the prior hearing shall not be binding in any subsequent proceeding, except as limited by subdivision (p). In the alternative, the people may move to reinstate the complaint, or those parts of the complaint for which the defendant was not held to answer, pursuant to Section 871.5. If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return or suppression of the property or evidence at the preliminary hearing is granted, and if the defendant is held to answer at the preliminary hearing, the ruling at the preliminary hearing shall be binding upon the people unless, upon notice to the defendant and the court in which the preliminary hearing was held and upon the filing of an information, the people, within 15 days after the preliminary hearing, request in the superior court a special hearing, in which case the validity of the search or seizure shall be relitigated de novo on the basis of the evidence presented at the special hearing, and the defendant shall be entitled, as a matter of right, to a continuance of the special hearing for a period of time up to 30 days. The people may not request relitigation of the motion at a special hearing if the defendant's motion has been granted twice. If the defendant's motion is granted at a special hearing in the superior court, the people, if they have additional evidence relating to the motion and not presented at the special hearing, shall have the right to show good cause at the trial why the evidence was not presented at the special hearing and why the prior

ruling at the special hearing should not be binding, or the people may seek appellate review as provided in subdivision (o), unless the court, prior to the time the review is sought, has dismissed the case pursuant to Section 1385. If the case has been dismissed pursuant to Section 1385, or if the people dismiss the case on their own motion after the special hearing, the people may file a new complaint or seek an indictment after the special hearing, and the ruling at the special hearing shall not be binding in any subsequent proceeding, except as limited by subdivision (p). If the property or evidence seized relates solely to a misdemeanor complaint, and the defendant made a motion for the return of property or the suppression of evidence in the municipal court *or superior court in a county in which there is no municipal court* prior to trial, both the people and defendant shall have the right to appeal any decision of that court relating to that motion to the superior court of the county in which the municipal *or superior* court is located, in accordance with the California Rules of Court provisions governing appeals ~~from municipal courts to the appellate division~~ in criminal cases. If the people prosecute review by appeal or writ to decision, or any review thereof, in a felony or misdemeanor case, it shall be binding upon them.

(k) If the defendant's motion to return property or suppress evidence is granted and the case is dismissed pursuant to Section 1385, or the people appeal in a misdemeanor case pursuant to subdivision (j), the defendant shall be released pursuant to Section 1318 if he or she is in custody and not returned to custody unless the proceedings are resumed in the trial court and he or she is lawfully ordered by the court to be returned to custody.

If the defendant's motion to return property or suppress evidence is granted and the people file a petition for writ of mandate or prohibition pursuant to subdivision (o) or a notice of intention to file such a petition, the defendant shall be released pursuant to Section 1318, unless (1) he or she is charged with a capital offense in a case where the proof is evident and the presumption great, or (2) he or she is charged with a noncapital offense defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1, and

the court orders that the defendant be discharged from actual custody upon bail.

(l) If the defendant's motion to return property or suppress evidence is granted, the trial of a criminal case shall be stayed to a specified date pending the termination in the appellate courts of this state of the proceedings provided for in this section, Section 871.5, 1238, or 1466 and, except upon stipulation of the parties, pending the time for the initiation of these proceedings. Upon the termination of these proceedings, the defendant shall be brought to trial as provided by Section 1382, and, subject to the provisions of Section 1382, whenever the people have sought and been denied appellate review pursuant to subdivision (o), the defendant shall be entitled to have the action dismissed if he or she is not brought to trial within 30 days of the date of the order that is the last denial of the petition. Nothing contained in this subdivision shall prohibit a court, at the same time as it rules upon the search and seizure motion, from dismissing a case pursuant to Section 1385 when the dismissal is upon the court's own motion and is based upon an order at the special hearing granting the defendant's motion to return property or suppress evidence. In a misdemeanor case, the defendant shall be entitled to a continuance of up to 30 days if he or she intends to file a motion to return property or suppress evidence and needs this time to prepare for the special hearing on the motion. In case of an appeal by the defendant in a misdemeanor case from the denial of the motion, he or she shall be entitled to bail as a matter of right, and, in the discretion of the trial or appellate court, may be released on his or her own recognizance pursuant to Section 1318.

(m) The proceedings provided for in this section, and Sections 871.5, 995, 1238, and 1466 shall constitute the sole and exclusive remedies prior to conviction to test the unreasonableness of a search or seizure where the person making the motion for the return of property or the suppression of evidence is a defendant in a criminal case and the property or thing has been offered or will be offered as evidence against him or her. A defendant may seek further review of the validity of a search or seizure on appeal from a conviction in a criminal case notwithstanding the fact that the

judgment of conviction is predicated upon a plea of guilty. Review on appeal may be obtained by the defendant provided that at some stage of the proceedings prior to conviction he or she has moved for the return of property or the suppression of the evidence.

(n) This section establishes only the procedure for suppression of evidence and return of property, and does not establish or alter any substantive ground for suppression of evidence or return of property. Nothing contained in this section shall prohibit a person from making a motion, otherwise permitted by law, to return property, brought on the ground that the property obtained is protected by the free speech and press provisions of the United States and California Constitutions. Nothing in this section shall be construed as altering (1) the law of standing to raise the issue of an unreasonable search or seizure; (2) the law relating to the status of the person conducting the search or seizure; (3) the law relating to the burden of proof regarding the search or seizure; (4) the law relating to the reasonableness of a search or seizure regardless of any warrant that may have been utilized; or (5) the procedure and law relating to a motion made pursuant to Section 871.5 or 995, or the procedures that may be initiated after the granting or denial of such a motion.

(o) Within 30 days after a defendant's motion is granted at a special hearing in the superior court *in a felony case*, the people may file a petition for writ of mandate or prohibition *in the court of appeal*, seeking appellate review of the ruling regarding the search or seizure motion. If the trial of a criminal case is set for a date that is less than 30 days from the granting of a defendant's motion at a special hearing in the superior court *in a felony case*, the people, if they have not filed such a petition and wish to preserve their right to file a petition, shall file in the superior court on or before the trial date or within 10 days after the special hearing, whichever occurs last, a notice of intention to file a petition and shall serve a copy of the notice upon the defendant.

(p) If a defendant's motion to return property or suppress evidence in a felony matter has been granted twice, the people may not file a new complaint or seek an indictment in order to relitigate the motion or relitigate the matter de novo at a special hearing in

the superior court as otherwise provided by subdivision (j), unless the people discover additional evidence relating to the motion that was not reasonably discoverable at the time of the second suppression hearing. Relitigation of the motion shall be heard by the same judge who granted the motion at the first hearing if the judge is available.

(q) The amendments to this section enacted in the 1997 portion of the 1997-98 Regular Session of the Legislature shall apply to all criminal proceedings conducted on or after January 1, 1998.

Comment. Section 1538.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. The language added to subdivision (m) is based on Cal. Const. art. VI, § 23(c)(7).

These amendments of Section 1538.5 are not intended to modify Article I, Section 28(d) of the California Constitution. *Cf.* *People v. Daan*, 161 Cal. App. 3d 22 (1984).

It should be noted that procedures under this section that provide for superior court review of, or action based on, a ruling or order by a superior court judge or a magistrate must be performed by a superior court judge other than the judge or magistrate who originally made the ruling or order, unless agreed to by the parties. Section 859c.

Penal Code § 2620 (amended). Proceedings involving prisoner

SEC. _____. Section 2620 of the Penal Code is amended to read:

2620. When it is necessary to have a person imprisoned in the state prison brought before any court to be tried for an offense ~~triable in the superior court~~ *a felony*, or for an examination before a grand jury or magistrate preliminary to such trial, or for the purpose of hearing a motion or other proceeding, to vacate a judgment, an order for ~~his~~ *the prisoner's* temporary removal from said prison, and for ~~his~~ *the prisoner's* production before such court, grand jury or magistrate, must be made by the superior court of the county in which said action, motion, or examination is pending or by a judge thereof; such order shall be made only upon the affidavit of the district attorney or defense attorney, stating the purpose for which said person is to be brought before the court, grand jury or magistrate or upon the court's own motion. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper

court, grand jury or magistrate, to safely keep ~~him~~ *the prisoner*, and when ~~his~~ *the prisoner's* presence is no longer required to return ~~him~~ *the prisoner* to the prison from whence ~~he~~ *the prisoner* was taken; the expense of executing such order shall be a proper charge against and shall be paid by, the county in which the order shall be made.

Such order shall recite the purposes for which said person is to be brought before the court, grand jury or magistrate, and shall be signed by the judge making the order and sealed with the seal of the court. The order must be to the following effect:

County of _____ (as the case may be).

The people of the State of California to the warden of _____:

An order having been made this day by me, that A.B. be produced in the _____ court (or before the grand jury, as the case may be) to be prosecuted or examined for the crime of _____, ~~an offense triable in the superior court~~ *a felony* (or to have said motion heard), you are commanded to deliver ~~him~~ *the prisoner* into the custody of _____ for the purpose of (recite purposes).

Dated this _____ day of _____, 19__.

When a prisoner is removed from a state prison under this section ~~he~~ *the prisoner* shall remain in the constructive custody of the warden thereof. During the prisoner's absence from the prison, ~~he~~ *the prisoner* may be ordered to appear in other felony proceedings as a defendant or witness in the courts of the county from which the original order directing removal issued. A copy of the written order directing the prisoner to appear before any such court shall be forwarded by the district attorney to the warden of the prison having protective custody of the prisoner.

Comment. Section 2620 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 2621 (amended). Prisoner as material witness

SEC. _____. Section 2621 of the Penal Code is amended to read:

2621. When the testimony of a material witness is required in a criminal action, before any court in this state, or in an examination before a grand jury or magistrate ~~for an offense triable in the superior court in a felony case~~ and such witness is a prisoner in a state prison, an order for ~~his~~ *the prisoner's* temporary removal from such prison, and for ~~his~~ *the prisoner's* production before such court, grand jury or magistrate, may be made by the superior court of the county in which such action or examination is pending or by a judge thereof; but in case the prison is out of the county in which the application is made, such order shall be made only upon the affidavit of the district attorney or of the defendant or ~~his~~ *the defendant's* counsel, showing that the testimony is material and necessary; and even then the granting of the order shall be in the discretion of said superior court or a judge thereof. The order shall be executed by the sheriff of the county in which it is made, whose duty it shall be to bring the prisoner before the proper court, grand jury or magistrate, to safely keep ~~him~~ *the prisoner*, and when ~~he is~~ no longer required as a witness, to return ~~him~~ *the prisoner* to the prison whence ~~he~~ *the prisoner* was taken; the expense of executing such order shall be a proper charge against, and shall be paid by, the county in which the order shall be made. Such orders shall recite the purposes for which said person is to be brought before the court, grand jury or magistrate, and shall be signed by the magistrate or judge making the order, and sealed with the seal of the court, if any.

Such order must be to the following effect:

County of _____ (as the case may be).

The people of the State of California to the warden of _____:

An order having been made this day by me, that A.B. be produced in this court as witness in the case of _____, you are commanded to deliver ~~him~~ *the prisoner* into the custody of _____ for the purpose of (recite purposes).

Dated this _____ day of _____, 19__.

When a prisoner is removed from a state prison under this section ~~he~~ *the prisoner* shall remain in the constructive custody of

the warden hereof. During the prisoner's absence from the prison, ~~he~~ *the prisoner* may be ordered to appear in other felony proceedings as a defendant or witness in the courts of the county from which the original order directing removal issued. A copy of the written order directing the prisoner to appear before any such court shall be forwarded by the district attorney to the warden of the prison having protective custody of the prisoner.

Comment. Section 2621 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 691 (defining "felony case" and "misdemeanor case").

Penal Code § 2623 (amended). Deposition of prisoner

SEC. _____. Section 2623 of the Penal Code is amended to read:

2623. If in a civil action or special proceeding a witness be a prisoner, confined in a state prison within this State, an order for ~~his~~ *the prisoner's* examination in the prison by deposition may be made.

1. By the court itself in which the action or special proceeding is pending, unless it be a ~~justice court or~~ small claims court.

2. By a judge of the superior court of the county where the action or proceeding is pending, if pending before a ~~justice or~~ small claims court or before a judge or other person out of court.

Such order can only be made on the motion of a party, upon affidavit showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality. The deposition, when ordered, shall be taken in accordance with Section 2622.

Comment. Section 2623 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 3076 (amended). County board of parole commissioners

SEC. _____. Section 3076 of the Penal Code is amended to read:

3076. (a) The board may make, establish and enforce rules and regulations adopted under this article.

(b) The board shall act at regularly called meetings at which two-thirds of the members are present, and shall make and establish rules and regulations in writing stating the reasons therefor under

which any prisoner who is confined in or committed to any county jail, work furlough facility, industrial farm, or industrial road camp, or in any city jail, work furlough facility, industrial farm, or industrial road camp under a judgment of imprisonment or as a condition of probation for any criminal offense, unless the court at the time of committing has ordered that such prisoner confined as a condition of probation upon conviction of a felony not be granted parole, may be allowed to go upon parole outside of such jail, work furlough facility, industrial farm, or industrial road camp, but to remain, while on parole, in the legal custody and under the control of the board establishing the rules and regulations for ~~his~~ *the prisoner's* parole, and subject at any time to be taken back within the enclosure of any such jail, work furlough facility, industrial farm, or industrial road camp.

(c) The board shall provide a complete copy of its written rules and regulations and reasons therefor and any amendments thereto to each of the judges of the county's justice, municipal and superior courts.

The board shall provide to the persons in charge of the county's correctional facilities a copy of the sections of its written rules and regulations and any amendments thereto which govern eligibility for parole, and the name and telephone number of the person or agency to contact for additional information. Such rules and regulations governing eligibility either shall be conspicuously posted and maintained within each county correctional facility so that all prisoners have access to a copy, or shall be given to each prisoner.

Comment. Section 3076 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 4004 (amended). Confinement and custody

SEC. _____. Section 4004 of the Penal Code is amended to read:

4004. A prisoner committed to the county jail for examination, or upon conviction for a public offense, must be actually confined in the jail until ~~he is~~ legally discharged; and if ~~he~~ *the prisoner* is permitted to go at large out of the jail, except by virtue of a legal order or process, it is an escape; provided, however, that during the

pendency of a criminal proceeding, the ~~superior court or an inferior court, as the case may be,~~ court before which said proceeding is pending may make a legal order, good cause appearing therefor, for the removal of the prisoner from the county jail in custody of the sheriff. In ~~judicial districts~~ courts where there is a marshal, the marshal shall maintain custody of such prisoner while ~~he~~ *the prisoner* is in the ~~municipal~~ court facility pursuant to such court order. The superior court of the county may make a legal order, good cause appearing therefor, for the removal of prisoners confined in the county jail, after conviction, in the custody of the sheriff.

If facilities are no longer available in the county jail due to crowded conditions, a sheriff may transfer a person committed to the county jail upon conviction for a public offense to facilities which are available in the city jail, as provided for in Section 4004.5.

Comment. Section 4004 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 4022 (amended). City jail

SEC. _____. Section 4022 of the Penal Code is amended to read:

4022. Whenever by the terms of this code, or of any other law of the State, it is provided that a prisoner shall be confined in any county jail, such provision shall be construed to authorize any prisoner convicted ~~in a municipal or justice court of a misdemeanor~~ to be confined, with the consent of the city, in any city jail in the judicial district in which the offense was committed, and as to such prisoner so confined in such city jail, the designations, county jail and city jail shall be interchangeable, and in such case the obligations to which the county is liable in case of confinement in a county jail, shall become liabilities of the city where such prisoner is confined in a city jail.

Comment. Section 4022 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). As used in this section, “judicial district” means, in a county in which there is no municipal court, the county. Code Civ. Proc. § 38. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The section

applies only to misdemeanors; conviction of an infraction cannot lead to confinement.

Penal Code § 4024.1 (amended). Release of inmates

SEC. _____. Section 4024.1 of the Penal Code is amended to read:

4024.1. (a) The sheriff, chief of police, or any other person responsible for a county or city jail may apply to the presiding judge of the justice, ~~municipal~~, *municipal* or superior court to receive general authorization for a period of 30 days to release inmates pursuant to the provisions of this section.

(b) Whenever, after being authorized by a court pursuant to subdivision (a), the actual inmate count exceeds the actual bed capacity of a county or city jail, the sheriff, chief of police, or other person responsible for such county or city jail may accelerate the release, discharge, or expiration of sentence date of sentenced inmates up to a maximum of five days.

(c) The total number of inmates released pursuant to this section shall not exceed a number necessary to balance the inmate count and actual bed capacity.

(d) Inmates closest to their normal release, discharge, or expiration of sentence date shall be given accelerated release priority.

(e) The number of days that release, discharge, or expiration of sentence is accelerated shall in no case exceed 10 percent of the particular inmate's original sentence, prior to the application thereto of any other credits or benefits authorized by law.

Comment. Section 4024.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 4112 (amended). Industrial road camp

SEC. _____. Section 4112 of the Penal Code is amended to read:

4112. When land has been acquired and such buildings and structures erected and improvements made as may be immediately necessary for the carrying out of the purposes of this article or arrangements have been made for an industrial road camp or camps, the board of supervisors shall adopt a resolution proclaiming that an industrial farm or road camp has been

established in the county and designating a day on and after which persons will be admitted to such farm or camp. Certified copies of the resolution shall be forwarded by the clerk of the board of supervisors to each municipal court judge ~~and each justice court judge~~ in the county *or each superior court judge in a county in which there is no municipal court.*

Comment. Section 4112 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 13125 (amended). Criminal offender record information systems

SEC. _____. Section 13125 of the Penal Code is amended to read:
13125. All basic information stored in state or local criminal offender record information systems shall be recorded, when applicable and available, in the form of the following standard data elements:

The following personal identification data:

- Name — (full name)
- Aliases
- Monikers
- Race
- Sex
- Date of birth
- Place of birth (state or country)
- Height
- Weight
- Hair color
- Eye color
- CII number
- FBI number
- Social security number
- California operators license number
- Fingerprint classification number
- Henry
- NCIC
- Address

The following arrest data:

- Arresting agency

- Booking number
- Date of arrest
- Offenses charged
 - Statute citations
 - Literal descriptions
- Police disposition
 - Released
 - Cited and released
 - Turned over to
 - Complaint filed

The following ~~lower court~~ *misdemeanor or infraction or preliminary hearing* data:

- County and court name
- Date complaint filed
- Original offenses charged in complaint to ~~superior court~~ or *citation*
 - Held to answer
 - Certified plea
- ~~Disposition — lower court~~
Disposition
 - Not convicted
 - Dismissed
 - Acquitted
 - Court trial
 - Jury trial
 - Convicted
 - Plea
 - Court trial
 - Jury trial
 - Date of disposition
 - Convicted offenses
 - Sentence
 - Proceedings suspended
 - Reason suspended

The following superior court data:

- County
- Date complaint filed
- Type of proceeding
 - Indictment
 - Information
 - Certification
- Original offenses charged in indictment or information

Disposition

Not convicted

Dismissed

Acquitted

Court trial

Jury trial

On transcript

Convicted — felony, misdemeanor

Plea

Court trial

Jury trial

On transcript

Date of disposition

Convicted offenses

Sentence

Proceedings suspended

Reason suspended

Source of reopened cases

The following corrections data:

Adult probation

County

Type of court

Court number

Offense

Date on probation

Date removed

Reason for removal

Jail (unsentenced prisoners only)

Offenses charged

Name of jail or institution

Date received

Date released

Reason for release

Bail on own recognizance

Bail

Other

Committing agency

County jail (sentenced prisoners only)

Name of jail, camp, or other

Convicted offense

Sentence

Date received

Date released

- Reason for release
- Committing agency
- Youth Authority
 - County
 - Type of court
 - Court number
 - Youth Authority number
 - Date received
 - Convicted offense
 - Type of receipt
 - Original commitment
 - Parole violator
 - Date released
 - Type of release
 - Custody
 - Supervision
 - Date terminated
- Department of Corrections
 - County
 - Type of court
 - Court number
 - Department of Corrections number
 - Date received
 - Convicted offense
 - Type of receipt
 - Original commitment
 - Parole violator
 - Date released
 - Type of release
 - Custody
 - Supervision
 - Date terminated
- Mentally disordered sex offenders
 - County
 - Hospital number
 - Date received
 - Date discharged
 - Recommendation

Comment. Section 13125 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county with a unified trial court, preliminary hearing data (instead of municipal court data) will be collected.

Penal Code § 13151 (amended). Disposition report of cases

SEC. _____. Section 13151 of the Penal Code is amended to read:

13151. The superior, ~~municipal, or justice~~ *or municipal* court that disposes of a case for which an arrest was required to be reported to the Department of Justice pursuant to Section 13150 or for which fingerprints were taken and submitted to the Department of Justice by order of the court shall assure that a disposition report of such case containing the applicable data elements enumerated in Section 13125, or Section 13151.1 if such disposition is one of dismissal, is furnished to the Department of Justice within 30 days according to the procedures and on a format prescribed by the department. The court shall also furnish a copy of such disposition report to the law enforcement agency having primary jurisdiction to investigate the offense alleged in the complaint or accusation. Whenever a court shall order any action subsequent to the initial disposition of a case, the court shall similarly report such proceedings to the department.

Comment. Section 13151 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 14154 (amended). Referral to community conflict resolution program

SEC. _____. Section 14154 of the Penal Code is amended to read:

14154. In a county in which the district attorney has established a community conflict resolution program, the ~~municipal and justice courts~~ *court or the superior court in a county in which there is no municipal court* may, with the consent of the district attorney and the defendant, refer misdemeanor cases, including those brought by a city prosecutor, to that program. In determining whether to refer a case to the community conflict resolution program, the court shall consider, but is not limited to considering, all of the following:

(a) The factors listed in Section 14152.

(b) Any other referral criteria established by the district attorney for the program.

The court shall not refer any case to the community conflict resolution program which was previously referred to that program by the district attorney.

Comment. Section 14154 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

PUBLIC RESOURCES CODE

Pub. Res. Code § 3357 (amended). Investigative powers

SEC. _____. Section 3357 of the Public Resources Code is amended to read:

3357. In any proceeding before the director, and in any proceeding instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this division, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly located, drilled, operated, maintained, or conducted, the supervisor and the director shall have the power to administer oaths and may apply to a judge of the superior court of the county in which the proceeding or investigation is pending for a subpoena for witnesses to attend the proceeding or investigation. Upon the application of the supervisor or the director, the judge of the superior court shall issue a subpoena directing the witness to attend the proceeding or investigation, and such person shall be required to produce, when directed, all records, surveys, documents, books, or accounts in *his the witness'* custody or under *his the witness'* control; except that no person shall be required to attend upon such proceeding unless *he the person* resides within the same county or within 100 miles of the place of attendance. The supervisor or the director may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*, and may, upon application to a judge of the superior court of the county within which the proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of records, surveys, documents, books, or accounts at

such places as the judge may designate within the limits prescribed in this section.

Comment. Section 3357 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Res. Code § 3769 (amended). Investigative powers

SEC. _____. Section 3769 of the Public Resources Code is amended to read:

3769. In any proceeding instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this chapter, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly located, drilled, operated, maintained, or conducted, the supervisor shall have the power to administer oaths and may apply to a judge of the superior court of the county in which the proceeding or investigation is pending, for a subpoena for witnesses to attend the proceeding or investigation. Upon the application of the supervisor, the judge of the superior court shall issue a subpoena directing the witness to attend the proceeding or investigation, and such person shall be required to produce, when directed, all records, surveys, documents, books, or accounts in ~~his~~ *the witness'* custody or under ~~his~~ *the witness'* control; except that no person shall be required to attend upon such proceeding, unless ~~he~~ *the person* resides within the same county or within 100 miles of the place of attendance.

The supervisor may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure*, and may, upon application to a judge of the superior court of the county within which the proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of records, surveys, documents, books, or accounts at such places as the judge may designate within the limits prescribed in this section.

Comment. Section 3769 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Res. Code § 5560 (amended). Penalties and jurisdiction

SEC. _____. Section 5560 of the Public Resources Code is amended to read:

5560. (a) Violation of any ordinance, rule, or regulation adopted pursuant to this article is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or by imprisonment in the county jail for a period not to exceed six months, or by both such fine and imprisonment, unless the board provides that a violation of any ordinance, rule, or regulation is an infraction, which shall be punishable by a fine not to exceed fifty dollars (\$50).

(b) ~~Any judge of a justice court within any judicial district lying wholly or in part within the district, or any municipal court which may be established within the district, or~~ *superior court in a county in which there is no municipal court*, shall have jurisdiction of all prosecutions under this article for violations of any ordinance, rule, or regulation adopted by the board.

Comment. Section 5560 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e) In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). “District,” as used in this section, means any “regional park district, regional park and open-space district, or regional open-space district formed pursuant to this article.” See Section 5500. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

PUBLIC UTILITIES CODE

Pub. Util. Code § 1794 (amended). Depositions

SEC. _____. Section 1794 of the Public Utilities Code is amended to read:

1794. The commission or any commissioner or any party may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this State *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4*

of the Code of Civil Procedure and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, and accounts.

Comment. Section 1794 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Util. Code § 5411.5 (amended). Seizure or impoundment of vehicle

SEC. _____. Section 5411.5 of the Public Utilities Code is amended to read:

5411.5. Whenever a peace officer arrests a person for a violation of Section 5411 involving the operation of a charter-party carrier of passengers without a valid certificate or permit at a public airport, within 100 feet of a public airport, or within two miles of the international border between the United States and Mexico, the peace officer may impound and retain possession of the vehicle used in violation of Section 5411.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of Section 5411 without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in municipal court, *or in superior court in a county in which there is no municipal court*, for the immediate return of the vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. *A proceeding under this section is a limited civil case.*

No peace officer, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation

pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

Comment. Section 5411.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Pub. Util. Code § 103100 (amended). Membership of board

SEC. _____. Section 103100 of the Public Utilities Code is amended to read:

103100. The government of the district shall be vested in a board of directors, which shall consist of nine members, selected as follows:

(a) Three members, two of whom shall, at the time of their appointments and during their service as directors, be members of the board of supervisors and one of whom shall possess expertise in the field of transportation, appointed by the board of supervisors.

(b) Three members, all of whom shall be ~~city councilmen~~ *council members* at the time of their appointments and during their service as directors, ~~with one from each of the judicial districts in the county,~~ appointed by the city selection committee created pursuant to Article 11 (commencing with Section 50270), Chapter 1, Part 1, Division 1, Title 5 of the Government Code.

(c) Three members, one of whom shall be a resident of the coastal zone as defined in Section 27100 of the Public Resources Code, at the time of their appointments and during their service as directors, appointed by the six members appointed pursuant to subdivisions (a) and (b).

Comment. Section 103100 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The revision of subdivision (b) reflects the existing consolidation of municipal court districts in San Mateo County. As used in the introductory clause of this section, “district” means the San Mateo County Transit District. See Section 103011.

REVENUE AND TAXATION CODE

Rev. & Tax. Code § 6776 (amended). Issuance of warrant

SEC. _____. Section 6776 of the Revenue and Taxation Code is amended to read:

6776. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording of an abstract under Section 6738 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, constable, or the Department of the California Highway Patrol and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution and shall be levied within five working days following receipt of the warrant.

Comment. Section 6776 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Rev. & Tax. Code § 6777 (amended). Fees

SEC. _____. Section 6777 of the Revenue and Taxation Code is amended to read:

6777. The board may pay or advance to the sheriff, marshal, constable, or the Department of the California Highway Patrol, the same fees, commissions, and expenses for services as are provided by law for similar services rendered pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

Comment. Section 6777 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Rev. & Tax. Code § 19232 (amended). Force and effect of warrant

SEC. _____. Section 19232 of the Revenue and Taxation Code is amended to read:

19232. The warrant shall be directed to any sheriff, ~~constable~~, marshal, or the Department of the California Highway Patrol and shall have the same force and effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of and sale pursuant to a writ of execution.

Comment. Section 19232 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Rev. & Tax. Code § 19233 (amended). Fees

SEC. _____. Section 19233 of the Revenue and Taxation Code is amended to read:

19233. The Franchise Tax Board shall pay or advance to the sheriff, ~~constable~~, marshal, or the Department of the California Highway Patrol the same fees, commissions, and expenses as are provided by law for similar services pursuant to a writ of execution. The Franchise Tax Board, and not the court, shall approve the fees for publication in a newspaper.

Comment. Section 19233 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Rev. & Tax. Code § 19280 (amended). Referral of fines and penalties to Franchise Tax Board

SEC. _____. Section 19280 of the Revenue and Taxation Code, as amended by Section 24 of Chapter 7 of the Statutes of 1998, is amended to read:

19280. (a)(1) Fines, state or local penalties, forfeitures, restitution fines, restitution orders, or any other amounts imposed by a superior, ~~municipal, or justice or municipal~~ court of the State of California upon a person or any other entity that is due and payable in an amount totaling no less than two hundred fifty dollars (\$250), in the aggregate, for criminal offenses, including all offenses involving a violation of the Vehicle Code except offenses relating to parking or registration or offenses by pedestrians or bicyclists, may, no sooner than 90 days after payment of that amount becomes delinquent, be referred by the county or the state to the Franchise Tax Board for collection under guidelines prescribed by the Franchise Tax Board.

(2) For purposes of this subdivision:

(A) The amounts referred by the county or state under this section may include any amounts that a government entity may add to the court-imposed obligation as a result of the underlying offense, trial, or conviction. For purposes of this article, those amounts shall be deemed to be imposed by the court.

(B) Restitution orders may be referred to the Franchise Tax Board only by a government entity, as agreed upon by the Franchise Tax Board, provided that all of the following apply:

(i) The government entity has the authority to collect on behalf of the state or the victim.

(ii) The government entity shall be responsible for distributing the restitution order collections, as appropriate.

(iii) The government entity shall ensure, in making the referrals and distributions, that it coordinates with any other related collection activities that may occur by counties or other state agencies.

(iv) The government entity shall ensure compliance with laws relating to the reimbursement of the State Restitution Fund.

(C) The Franchise Tax Board shall establish criteria for referral, which shall include setting forth a minimum dollar amount subject to referral and collection.

(b) For the period January 1, 1995, to December 31, 1997, inclusive, for purposes of a manageable implementation and evaluation of the program authorized by this article, the Franchise Tax Board may limit referrals to nine counties.

(c) Upon written notice to the obligor from the Franchise Tax Board, any amount referred to the Franchise Tax Board under subdivision (a) and any interest thereon, including any interest on the amount referred under subdivision (a) that accrued prior to the date of referral, shall be treated as final and due and payable to the State of California, and shall be collected from the obligor by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent personal income tax liability, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of

Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(d)(1) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts referred under this article in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this article, except to the extent that any provision is either inconsistent with this article or is not relevant to this article.

(2) Any information, information sources, or enforcement remedies and capabilities available to the court or the state referring the amount due described in subdivision (a), shall be available to the Franchise Tax Board to be used in conjunction with, or independent of, the information, information sources, or remedies and capabilities available to the Franchise Tax Board for purposes of administering Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), or Part 11 (commencing with Section 23001).

(e) The activities required to implement and administer this part shall not interfere with the primary mission of the Franchise Tax Board to administer Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001).

(f) For amounts referred for collection under subdivision (a), interest shall accrue at the greater of the rate applicable to the amount due being collected or the rate provided under Section 19521. When notice of the amount due includes interest and is mailed to the obligor and the amount is paid within 15 days after the date of notice, interest shall not be imposed for the period after the date of notice.

(g) In no event shall a collection under this article be construed as a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

Comment. Section 19280 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

UNEMPLOYMENT INSURANCE CODE

Unemp. Ins. Code § 1785 (amended). Issuance of warrant

SEC. _____. Section 1785 of the Unemployment Insurance Code is amended to read:

1785. If any amount required to be paid under this division is not paid when due, the director or the director's authorized representative may, not later than three years after the payment became delinquent, or within 10 years after the last entry of a judgment under Article 5 (commencing with Section 1815) or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this division. The warrant shall be directed to any sheriff, marshal, *or* peace officer of the Department of the California Highway Patrol, ~~or constable~~ and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

Comment. Section 1785 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Unemp. Ins. Code § 1786 (amended). Fees

SEC. _____. Section 1786 of the Unemployment Insurance Code is amended to read:

1786. The department may pay or advance to the sheriff, marshal, *or* peace officer of the Department of the California Highway Patrol, ~~or constable~~, the same fees, commissions, and expenses for his or her services under this article as are provided by law for similar services pursuant to a writ of execution. The director, and not the court, shall approve the fees for publication in a newspaper.

Comment. Section 1786 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

VEHICLE CODE

Veh. Code § 2802.5 (amended). Commercial vehicle inspection facilities

SEC. _____. Section 2802.5 of the Vehicle Code is amended to read:

2802.5. (a) The Department of the California Highway Patrol, in cooperation with the Public Utilities Commission, the State Board of Equalization, the Department of Motor Vehicles, the Judicial Council, and other appropriate agencies, shall develop an interagency agreement under which the agencies shall assign one or more employees or interagency clerks at one or more commercial vehicle inspection facilities of the department which are open on a continuous basis. The employees or interagency clerks shall be assigned duties to perform on behalf of the state agencies which are a party to the agreement as specified in subdivision (b). However, in the case of the Judicial Council, the clerk shall perform duties on behalf of the clerk of the municipal court district in which the inspection facility is located, *or of the superior court in a county in which there is no municipal court.*

(b) The employees or interagency clerks may issue registration permits for any of the state agencies which are parties to the interagency agreement, accept the payment of any fees due any of the state agencies, accept payment of bail or fines, set court dates, and perform other ministerial administrative functions for the state agencies or ~~the municipal court district~~. The Department of the California Highway Patrol, in cooperation with the other state agencies, shall provide computerized equipment appropriate to identify the status of any vehicles or drivers passing through the inspection facility. The employees or interagency clerks shall accept payment by credit card. Assigned personnel may remain the employees of their respective agencies, or as may otherwise be provided by the interagency agreement. The interagency agreement shall provide for sharing of associated costs between participating agencies, based on the anticipated enhanced revenue collections.

(c) At the request of any peace officer, the employees or interagency clerks shall determine the status of any outstanding

warrants and whether all fees due have been paid with respect to a driver or vehicle present at the inspection facility.

(d) A peace officer at the inspection facility may store or impound any vehicle upon determination that the vehicle or the driver of the vehicle has failed to pay registration, regulatory, fuel permit, or other fees, or has any outstanding warrants in any county in the state. The stored or impounded vehicle shall be released upon payment of those fees, fines, or the posting of bail. Upon request, the driver or owner of the vehicle may request a hearing to determine the validity of the seizure.

(e) The Department of the California Highway Patrol may implement this program as a demonstration pilot program at one or more locations. The department, on or before February 1, 1992, shall report its recommendations for continuation, expansion, or termination of the program to the Legislature. The report shall also include comments from the trucking industry concerning the benefits and problems in the program and any recommendations as a result of the pilot project. The report shall also consider the potential for ports of entry at major highway entry points to California, similar to programs already implemented in other states.

Comment. Section 2802.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Veh. Code § 9872.1 (amended). Vessel with hull identification number removed

SEC. _____. Section 9872.1 of the Vehicle Code is amended to read:

9872.1. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in his or her possession any vessel, or component part thereof, from which the hull identification number has been removed, defaced, altered, or destroyed, unless the vessel or component part has attached thereto a hull identification number assigned or approved by the department in lieu of the manufacturer's number.

(b) Whenever a vessel, or component part thereof, from which the hull identification number has been removed, defaced, altered, or destroyed, and which does not have attached thereto an assigned

or approved number as described in subdivision (a), comes into the custody of a peace officer, the seized vessel or component part is subject, in accordance with the procedures specified in this section, to impoundment and to such disposition as may be provided by order of a court having jurisdiction. This subdivision does not apply with respect to a seized vessel or component part used as evidence in any criminal action or proceeding.

(c) Whenever a vessel or component part described in subdivision (a) comes into the custody of a peace officer, any person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the department, shall be notified within five days, excluding Saturdays, Sundays, and holidays, after the seizure, of the date, time, and place of the hearing required in subdivision (e). The notice shall contain the information specified in subdivision (d).

(d) Whenever a peace officer seizes a vessel or component part as provided in subdivision (b), any person from whom the property was seized shall be provided a notice of impoundment of the vessel or component part which shall serve as a receipt and contain the following information:

(1) Name and address of person from whom the property was seized.

(2) A statement that the vessel or component part seized has been impounded for investigation of a violation of this section and that the property will be released upon a determination that the hull identification number has not been removed, defaced, altered, or destroyed, or upon the presentation of satisfactory evidence of ownership of the vessel or component part, provided that no other person claims an interest in the property; otherwise, a hearing regarding the disposition of the vessel or component part shall take place in the proper court.

(3) A statement that any person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the department, will receive written notification of the date, time, and place of the hearing within five days, excluding Saturdays, Sundays, and holidays, after the seizure.

(4) Name and address of the law enforcement agency where evidence of ownership of the vessel or component part may be presented.

(5) A statement of the contents of this section.

(e) A hearing on the disposition of the property shall be held by the municipal ~~or justice~~ court, *or by the superior court in a county in which there is no municipal court*, within 60 days after the seizure. The hearing shall be before the court without a jury. A *proceeding under this section is a limited civil case.*

(1) If the evidence reveals either that the hull identification number has not been removed, altered, or destroyed or that the hull identification number has been removed, altered, or destroyed but satisfactory evidence of ownership has been presented to the seizing agency or court, the property shall be released to the person entitled thereto.

(2) If the evidence reveals that the hull identification number has been removed, altered, or destroyed, and satisfactory evidence of ownership has not been presented, the property shall be destroyed, sold, or otherwise disposed of as provided by court order.

(3) At the hearing, the seizing agency shall have the burden of establishing that the hull identification number has been removed, defaced, altered, or destroyed and that no satisfactory evidence of ownership has been presented.

(f) Nothing in this section precludes the return of a seized vessel or component part to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, upon the assignment of an identification number to the vessel or component part by the department.

Comment. Section 9872.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 10751 (amended). Removal of identifying number

SEC. _____. Section 10751 of the Vehicle Code is amended to read:

10751. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in his or her possession, any vehicle, or component part thereof, from which any serial or identification number, including, but not limited to, any number used for registration purposes, that is affixed by the manufacturer to the vehicle or component part, in whatever manner deemed proper by the manufacturer, has been removed, defaced, altered, or destroyed, unless the vehicle or component part has attached thereto an identification number assigned or approved by the department in lieu of the manufacturer's number.

(b) Whenever a vehicle described in subdivision (a), including a vehicle assembled with any component part which is in violation of subdivision (a), comes into the custody of a peace officer, it shall be destroyed, sold, or otherwise disposed of under the conditions as provided in an order by the court having jurisdiction. No court order providing for disposition shall be issued unless the person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the Department of Motor Vehicles, are provided a postseizure hearing by the court having jurisdiction within 90 days after the seizure. This subdivision shall not apply with respect to a seized vehicle or component part used as evidence in any criminal action or proceeding. Nothing in this section shall, however, preclude the return of a seized vehicle or a component part to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, upon the assignment of an identification number to the vehicle or component part by the department.

(c) Whenever a vehicle described in subdivision (a) comes into the custody of a peace officer, the person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the Department of Motor Vehicles, shall be notified within five days, excluding Saturdays, Sundays, and holidays, after the seizure, of the date, time, and place of the

hearing required in subdivision (b). The notice shall contain the information specified in subdivision (d).

(d) Whenever a peace officer seizes a vehicle described in subdivision (a), the person from whom the property was seized shall be provided a notice of impoundment of the vehicle which shall serve as a receipt and contain the following information:

(1) Name and address of person from whom the property was seized.

(2) A statement that the vehicle seized has been impounded for investigation of a violation of Section 10751 of the California Vehicle Code and that the property will be released upon a determination that the serial or identification number has not been removed, defaced, altered, or destroyed, or upon the presentation of satisfactory evidence of ownership of the vehicle or a component part, if no other person claims an interest in the property; otherwise, a hearing regarding the disposition of the vehicle shall take place in the proper court.

(3) A statement that the person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the Department of Motor Vehicles, will receive written notification of the date, time, and place of the hearing within five days, excluding Saturdays, Sundays, and holidays, after the seizure.

(4) Name and address of the law enforcement agency where evidence of ownership of the vehicle or component part may be presented.

(5) A statement of the contents of Section 10751 of the Vehicle Code.

(e) A hearing on the disposition of the property shall be held by the municipal ~~or justice~~ court, *or by the superior court in a county in which there is no municipal court*, within 90 days after the seizure. The hearing shall be before the court without a jury. *A proceeding under this section is a limited civil case.*

(1) If the evidence reveals either that the serial or identification number has not been removed, defaced, altered, or destroyed or that the number has been removed, defaced, altered, or destroyed but satisfactory evidence of ownership has been presented to the

seizing agency or court, the property shall be released to the person entitled thereto. Nothing in this section precludes the return of the vehicle or a component part to a good faith purchaser following presentation of satisfactory evidence of ownership thereof upon the assignment of an identification number to the vehicle or component part by the department.

(2) If the evidence reveals that the identification number has been removed, defaced, altered, or destroyed, and satisfactory evidence of ownership has not been presented, the vehicle shall be destroyed, sold, or otherwise disposed of as provided by court order.

(3) At the hearing, the seizing agency has the burden of establishing that the serial or identification number has been removed, defaced, altered, or destroyed and that no satisfactory evidence of ownership has been presented.

(f) This section does not apply to a scrap metal processor engaged primarily in the acquisition, processing, and shipment of ferrous and nonferrous scrap, and who receives dismantled vehicles from licensed dismantlers, licensed junk collectors, or licensed junk dealers as scrap metal for the purpose of recycling the dismantled vehicles for their metallic content, the end product of which is the production of material for recycling and remelting purposes for steel mills, foundries, smelters, and refiners.

Comment. Section 10751 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 11205 (amended). Traffic violator school list (as amended by Section 48 of Chapter 571 of the Statutes of 1997)

SEC. _____. Section 11205 of the Vehicle Code, as amended by Section 48 of Chapter 571 of the Statutes of 1997, is amended to read:

11205. (a) The department shall publish a traffic violator school referral list of all the approved locations of traffic violator school classes, by school name, to be transmitted to each municipal ~~and justice~~ court in the state, *and to each superior court in a county in which there is no municipal court*, in sufficient quantity to allow the courts to provide a copy to each person referred to traffic violator school. The list shall be revised at least twice annually and transmitted to the courts by the first day of January and the first day of July. It shall include all of the following:

(1) The name of each traffic violator school or, pursuant to subdivision (d), the general term “traffic violator school” followed by its traffic violator school license number.

(2) A phone number used for student information.

(3) The county and the judicial district.

(4) The cities where classes are available.

(b) Each traffic violator school owner shall be permitted one school name in a judicial district.

(c) The list shall be organized alphabetically in sections for each county and subsections for each judicial district within the county. The order of the names within each judicial district shall be random pursuant to a drawing or lottery conducted by the department.

(d) On the list prepared by the department under subdivision (c), each traffic violator school shall appear by name unless a court determines, pursuant to subdivision (e), that a name is inappropriate and directs the department to delete the name and instead list the school by the term “traffic violator school” followed by its license number. The deletion of the name of a school from the list for a judicial district shall not affect whether that school appears by name on the list for any other judicial district within the state. In making a determination under this subdivision regarding the deletion of a name from the list, the court shall use as its criteria whether the name is misleading to the public, undignified, or implies that the school offers inducements or premiums which derogate or distort the instructional intent of the traffic safety program.

(e) When the department transmits any referral list to each ~~municipal and justice court~~ pursuant to subdivision (a), each ~~municipal and justice court~~ shall do all of the following:

(1) Within 30 days of receipt of the list, notify the school owner of any school name that the court intends to remove from the referral list.

(2) Within 60 days of receipt of the list, make every effort to schedule, conduct, and complete a hearing for the school owner, or a representative, if requested, at which the sole issue shall be whether the name violates the standards set forth in subdivision (d). A substitute name may be submitted to the court at the conclusion of the hearing, pursuant to subdivision (h).

(3) Within 10 days of the completion of that hearing, notify the department and school owner of any school names it intends to remove from the referral list.

(f) In order for a court action to delete a school name from the next referral list published by the department, the department shall receive court notification no later than 90 days prior to publication of the next referral list and, absent a direct order by *the appellate division of the superior court* or a ~~superior court~~ or court of higher jurisdiction, the department shall not fail to publish a referral list on the grounds that there exists pending litigation or appeals concerning the lists.

(g) Any court notifying the department of a school name it intends to remove from the list, pursuant to this section, shall provide the school owner with the name of the judge making those findings.

(h) When a court informs a school owner, pursuant to subdivision (e), of its decision to delete the name of a traffic violator school from that judicial district's subsection of the department's traffic violator school referral list, the owner may, on a form approved by the department, submit a substitute name to the court and request approval of that name. The court shall, within 30 days of receipt of the request for approval of the substitute name, inform the department and the school owner, on a form approved by the department, of its approval or rejection of the substitute name. The school owner may continue this appeal process for

approval of a substitute name until the court determines that the name does not violate the standard set forth in subdivision (d). A name approval in a judicial district shall not affect the school's name or listing in any other district in the state. The department shall not impose any fee or license requirement under this subdivision.

(i) If a court fails to act within 30 days on a request of a traffic violator school owner, pursuant to subdivision (h), the proposed substitute name shall be deemed approved by the court for the purposes of the traffic violator school referral list.

(j)(1) Every application filed with the department on and after June 1, 1991, for an original license by a traffic school owner or for approval to conduct classes in a judicial district not previously approved, shall be accompanied by the approval of the court in each judicial district proposed for those operations of the name of the school, on a form approved by the department for that purpose. For the approved name to be included in the traffic violator school referral list, the form shall be received by the department no later than 90 days prior to publication.

(2) When a court disapproves a school name pursuant to this subdivision, the court shall notify the school owner within 30 days of its disapproval and schedule a hearing for that school owner, or a representative, if requested, at which the sole issue shall be whether the name violates the standards set forth in subdivision (d). A substitute name may be submitted to the court at the conclusion of the hearing, pursuant to subdivision (h).

(3) The court shall make every effort to schedule, conduct, and complete a hearing within 60 days of receipt of the school owner's request for a school name approval. A name approval in a judicial district shall not affect the school's name or listing in any other district in the state. A change in physical location by a school within a judicial district shall not require approval pursuant to this subdivision.

(k) The department shall publish a list of the owners of traffic violator schools. One copy shall be provided to each municipal ~~and justice~~ court in the state, *and to each superior court in a county in which there is no municipal court*. This list shall be revised at least

twice annually and transmitted to the courts by the first day of January and the first day of July. This list shall include all of the following:

- (1) The name of each school, grouped by owner.
- (2) The business office address.
- (3) The business office telephone number.
- (4) The license number.
- (5) The owner's name.
- (6) The operator's name.

(l) Except as otherwise provided in subdivision (d) of Section 42005, the court shall use either the current list of traffic violator schools published by the department when it orders a person to complete a traffic violator school pursuant to subdivision (a) or (b) of Section 42005 or, when a court utilizing a nonprofit agency for traffic violator school administration and monitoring services in which all traffic violator schools licensed by the department are allowed the opportunity to participate, a statewide referral list may be published by the nonprofit agency and distributed by the court. The agency shall monitor each classroom location situated within the judicial districts in which that agency provides services to the courts and is represented on its referral list. The monitoring shall occur at least once every 90 days with reports forwarded to the department and the respective courts on a monthly basis.

(m) The court may charge a traffic violator a fee to defray the costs incurred by the agency for the monitoring reports and services provided to the court. The court may delegate collection of the fee to the agency. Fees shall be approved and regulated by the court. Until December 31, 1996, the fee shall not exceed the actual cost incurred by the agency or five dollars (\$5), whichever is less.

(n) If any provision of subdivision (d) or (e), as added by Section 4 of Assembly Bill 185 of the 1991-92 Regular Session, or the application thereof to any person, is held to be unconstitutional, this section is repealed on the date the decision of the court so holding becomes final.

Comment. Section 11205 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 & Comment ("judicial district" defined). The hearings available

under subdivisions (e) and (j) are not classified as limited civil cases; it is not appropriate to subject these hearings to the full panoply of procedures that apply to limited civil cases. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 11205 (amended). Traffic violator school list (as amended by Section 48.5 of Chapter 571 of the Statutes of 1997)

SEC. _____. Section 11205 of the Vehicle Code, as amended by Section 48.5 of Chapter 571 of the Statutes of 1997, is amended to read:

11205. (a) The department shall publish semiannually, or more often as necessary to serve the purposes of this act, a list of all traffic violator schools which are licensed pursuant to this section. The list shall identify classroom facilities within a judicial district that are at a different location from a licensed school's principal facility. The department shall transmit the list to each municipal ~~and justice court~~ *and to each superior court in a county in which there is no municipal court*, with a sufficient number of copies to allow the courts to provide one copy to each person referred to a licensed traffic violator school. The department shall, at least semiannually, revise the list to ensure that each court has a current list of all licensed traffic violator schools.

(b) Each licensed traffic violator school owner shall be permitted one school name per judicial district.

(c) The referral list shall be organized alphabetically, in sections for each county, and contain subsections for each judicial district within the county. The order of the names within each judicial district shall be random pursuant to a drawing or lottery conducted by the department.

(d) Except as otherwise provided in subdivision (d) of Section 42005, the court shall use either the current referral list of traffic violator schools published by the department when it orders a person to complete a traffic violator school pursuant to subdivision (a) or (b) of Section 42005 or, when a court utilizing a nonprofit agency for traffic violator school administration and monitoring services in which all traffic violator schools licensed by the department are allowed the opportunity to participate, a statewide referral list may be published by the nonprofit agency and

distributed by the court. The agency shall monitor each classroom location situated within the judicial districts in which that agency provides services to the courts and is represented on its referral list. The monitoring shall occur at least once every 90 days with reports forwarded to the department and the respective courts on a monthly basis.

(e) The court may charge a traffic violator a fee to defray the costs incurred by the agency for the monitoring reports and services provided to the court. The court may delegate collection of the fee to the agency. Fees shall be approved and regulated by the court. Until December 31, 1996, the fee shall not exceed the actual cost incurred by the agency or five dollars (\$5), whichever is less.

(f) If any provision of subdivision (d) or (e) of Section 11205, as added by Section 4 of Assembly Bill 185 of the 1991-92 Regular Session, or the application thereof to any person, is held to be unconstitutional, that Section 11205 is repealed on the date the decision of the court so holding becomes final, and on that date, this section shall become operative.

Comment. Section 11205 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 14607.6 (amended). Vehicle driven by unlicensed driver

SEC. _____. Section 14607.6 of the Vehicle Code is amended to read:

14607.6. (a) Notwithstanding any other provision of law, and except as provided in this section, a motor vehicle is subject to forfeiture as a nuisance if it is driven on a highway in this state by a driver with a suspended or revoked license, or by an unlicensed driver, who is a registered owner of the vehicle at the time of impoundment and has a previous misdemeanor conviction for a violation of subdivision (a) of Section 12500 or Section 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5.

(b) A peace officer shall not stop a vehicle for the sole reason of determining whether the driver is properly licensed.

(c)(1) If a driver is unable to produce a valid driver's license on the demand of a peace officer enforcing the provisions of this code, as required by subdivision (b) of Section 12951, the vehicle shall be impounded regardless of ownership, unless the peace officer is reasonably able, by other means, to verify that the driver is properly licensed. Prior to impounding a vehicle, a peace officer shall attempt to verify the license status of a driver who claims to be properly licensed but is unable to produce the license on demand of the peace officer.

(2) A peace officer shall not impound a vehicle pursuant to this subdivision if the license of the driver expired within the preceding 30 days and the driver would otherwise have been properly licensed.

(3) A peace officer may exercise discretion in a situation where the driver without a valid license is an employee driving a vehicle registered to the employer in the course of employment. A peace officer may also exercise discretion in a situation where the driver without a valid license is the employee of a bona fide business establishment or is a person otherwise controlled by such an establishment and it reasonably appears that an owner of the vehicle, or an agent of the owner, relinquished possession of the vehicle to the business establishment solely for servicing or parking of the vehicle or other reasonably similar situations, and where the vehicle was not to be driven except as directly necessary to accomplish that business purpose. In this event, if the vehicle can be returned to or be retrieved by the business establishment or registered owner, the peace officer may release and not impound the vehicle.

(4) A registered or legal owner of record at the time of impoundment may request a hearing to determine the validity of the impoundment pursuant to subdivision (n).

(5) If the driver of a vehicle impounded pursuant to this subdivision was not a registered owner of the vehicle at the time of impoundment, or if the driver of the vehicle was a registered owner of the vehicle at the time of impoundment but the driver does not have a previous conviction for a violation of subdivision (a) of Section 12500 or Section 14601, 14601.1, 14601.2, 14601.3,

14601.4, or 14601.5, the vehicle shall be released pursuant to this code and is not subject to forfeiture.

(d)(1) This subdivision applies only if the driver of the vehicle is a registered owner of the vehicle at the time of impoundment. Except as provided in paragraph (5) of subdivision (c), if the driver of a vehicle impounded pursuant to subdivision (c) was a registered owner of the vehicle at the time of impoundment, the impounding agency shall authorize release of the vehicle if, within three days of impoundment, the driver of the vehicle at the time of impoundment presents his or her valid driver's license, including a valid temporary California driver's license or permit, to the impounding agency. The vehicle shall then be released to a registered owner of record at the time of impoundment, or an agent of that owner authorized in writing, upon payment of towing and storage charges related to the impoundment, and any administrative charges authorized by Section 22850.5, providing that the person claiming the vehicle is properly licensed and the vehicle is properly registered. A vehicle impounded pursuant to the circumstances described in paragraph (3) of subdivision (c) shall be released to a registered owner whether or not the driver of the vehicle at the time of impoundment presents a valid driver's license.

(2) If there is a community property interest in the vehicle impounded pursuant to subdivision (c), owned at the time of impoundment by a person other than the driver, and the vehicle is the only vehicle available to the driver's immediate family that may be operated with a class C driver's license, the vehicle shall be released to a registered owner or to the community property interest owner upon compliance with all of the following requirements:

(A) The registered owner or the community property interest owner requests release of the vehicle and the owner of the community property interest submits proof of that interest.

(B) The registered owner or the community property interest owner submits proof that he or she, or an authorized driver, is properly licensed and that the impounded vehicle is properly registered pursuant to this code.

(C) All towing and storage charges related to the impoundment and any administrative charges authorized pursuant to Section 22850.5 are paid.

(D) The registered owner or the community property interest owner signs a stipulated vehicle release agreement, as described in paragraph (3), in consideration for the nonforfeiture of the vehicle. This requirement applies only if the driver requests release of the vehicle.

(3) A stipulated vehicle release agreement shall provide for the consent of the signator to the automatic future forfeiture and transfer of title to the state of any vehicle registered to that person, if the vehicle is driven by a driver with a suspended or revoked license, or by an unlicensed driver. The agreement shall be in effect for only as long as it is noted on a driving record maintained by the department pursuant to Section 1806.1.

(4) The stipulated vehicle release agreement described in paragraph (3) shall be reported by the impounding agency to the department not later than 10 days after the day the agreement is signed.

(5) No vehicle shall be released pursuant to paragraph (2) if the driving record of a registered owner indicates that a prior stipulated vehicle release agreement was signed by that person.

(e)(1) The impounding agency, in the case of a vehicle that has not been redeemed pursuant to subdivision (d), or that has not been otherwise released, shall promptly ascertain from the department the names and addresses of all legal and registered owners of the vehicle.

(2) The impounding agency, within two days of impoundment, shall send a notice by certified mail, return receipt requested, to all legal and registered owners of the vehicle, at the addresses obtained from the department, informing them that the vehicle is subject to forfeiture and will be sold or otherwise disposed of pursuant to this section. The notice shall also include instructions for filing a claim with the district attorney, and the time limits for filing a claim. The notice shall also inform any legal owner of its right to conduct the sale pursuant to subdivision (g). If a registered owner was personally served at the time of impoundment with a

notice containing all the information required to be provided by this paragraph, no further notice is required to be sent to a registered owner. However, a notice shall still be sent to the legal owners of the vehicle, if any. If notice was not sent to the legal owner within two working days, the impounding agency shall not charge the legal owner for more than 15-days' impoundment when the legal owner redeems the impounded vehicle.

(3) No processing charges shall be imposed on a legal owner who redeems an impounded vehicle within 15 days of the impoundment of that vehicle. If no claims are filed and served within 15 days after the mailing of the notice in paragraph (2), or if no claims are filed and served within five days of personal service of the notice specified in paragraph (2), when no other mailed notice is required pursuant to paragraph (2), the district attorney shall prepare a written declaration of forfeiture of the vehicle to the state. A written declaration of forfeiture signed by the district attorney under this subdivision shall be deemed to provide good and sufficient title to the forfeited vehicle. A copy of the declaration shall be provided on request to any person informed of the pending forfeiture pursuant to paragraph (2). A claim that is filed and is later withdrawn by the claimant shall be deemed not to have been filed.

(4) If a claim is timely filed and served, then the district attorney shall file a petition of forfeiture with the appropriate justice, juvenile, or municipal, *or superior* court within 10 days of the receipt of the claim. The district attorney shall establish an expedited hearing date in accordance with instructions from the court, and the court shall hear the matter without delay. The court filing fee, not to exceed fifty dollars (\$50), shall be paid by the claimant, but shall be reimbursed by the impounding agency if the claimant prevails. To the extent practicable, the civil and criminal cases shall be heard at the same time in an expedited, consolidated proceeding. *A proceeding in the civil case is a limited civil case.*

(5) The burden of proof in the civil case shall be on the prosecuting agency, by a preponderance of the evidence. All questions that may arise shall be decided and all other proceedings shall be conducted as in an ordinary civil action. A judgment of

forfeiture does not require as a condition precedent the conviction of a defendant of an offense which made the vehicle subject to forfeiture. The filing of a claim within the time limits specified in paragraph (3) is considered a jurisdictional prerequisite for the availing of the action authorized by that paragraph.

(6) All right, title, and interest in the vehicle shall vest in the state upon commission of the act giving rise to the forfeiture.

(f) Any vehicle impounded that is not redeemed pursuant to subdivision (d) and is subsequently forfeited pursuant to this section shall be sold once an order of forfeiture is issued by the district attorney of the county of the impounding agency or a court, as the case may be, pursuant to subdivision (e).

(g) Any legal owner who in the regular course of business conducts sales of repossessed or surrendered motor vehicles may take possession and conduct the sale of the forfeited vehicle if it notifies the agency impounding the vehicle of its intent to conduct the sale within 15 days of the mailing of the notice pursuant to subdivision (e). Sale of the vehicle after forfeiture pursuant to this subdivision may be conducted at the time, in the manner, and on the notice usually given by the legal owner for the sale of repossessed or surrendered vehicles. The proceeds of any sale conducted by the legal owner shall be disposed of as provided in subdivision (i).

(h) If the legal owner does not notify the agency impounding the vehicle of its intent to conduct the sale as provided in subdivision (g), the agency shall offer the forfeited vehicle for sale at public auction within 60 days of receiving title to the vehicle. Low value vehicles shall be disposed of pursuant to subdivision (k).

(i) The proceeds of a sale of a forfeited vehicle shall be disposed of in the following priority:

(1) To satisfy the towing and storage costs following impoundment, the costs of providing notice pursuant to subdivision (e), the costs of sale, and the unfunded costs of judicial proceedings, if any.

(2) To the legal owner in an amount to satisfy the indebtedness owed to the legal owner remaining as of the date of sale, including accrued interest or finance charges and delinquency charges,

providing that the principal indebtedness was incurred prior to the date of impoundment.

(3) To the holder of any subordinate lien or encumbrance on the vehicle, other than a registered or legal owner, to satisfy any indebtedness so secured if written notification of demand is received before distribution of the proceeds is completed. The holder of a subordinate lien or encumbrance, if requested, shall furnish reasonable proof of its interest and, unless it does so upon request, is not entitled to distribution pursuant to this paragraph.

(4) To any other person, other than a registered or legal owner, who can reasonably establish an interest in the vehicle, including a community property interest, to the extent of his or her provable interest, if written notification is received before distribution of the proceeds is completed.

(5) Of the remaining proceeds, funds shall be made available to pay any local agency and court costs, that are reasonably related to the implementation of this section, that remain unsatisfied.

(6) Of the remaining proceeds, half shall be transferred to the Controller for deposit in the Vehicle Inspection and Repair Fund for the high-polluter repair assistance and removal program created by Article 9 (commencing with Section 44090) of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code, and half shall be transferred to the general fund of the city or county of the impounding agency, or the city or county where the impoundment occurred. A portion of the local funds may be used to establish a reward fund for persons coming forward with information leading to the arrest and conviction of hit and run drivers and to publicize the availability of the reward fund.

(j) The person conducting the sale shall disburse the proceeds of the sale as provided in subdivision (i) and shall provide a written accounting regarding the disposition to the impounding agency and, on request, to any person entitled to or claiming a share of the proceeds, within 15 days after the sale is conducted.

(k) If the vehicle to be sold pursuant to this section is not of the type that can readily be sold to the public generally, the vehicle shall be conveyed to a licensed dismantler or donated to an

eleemosynary institution. License plates shall be removed from any vehicle conveyed to a dismantler pursuant to this subdivision.

(l) No vehicle shall be sold pursuant to this section if the impounding agency determines the vehicle to have been stolen. In this event, the vehicle may be claimed by the registered owner at any time after impoundment, providing the vehicle registration is current and the registered owner has no outstanding traffic violations or parking penalties on his or her driving record or on the registration record of any vehicle registered to the person. If the identity of the legal and registered owners of the vehicle cannot be reasonably ascertained, the vehicle may be sold.

(m) Any owner of a vehicle who suffers any loss due to the impoundment or forfeiture of any vehicle pursuant to this section may recover the amount of the loss from the unlicensed, suspended, or revoked driver. If possession of a vehicle has been tendered to a business establishment in good faith, and an unlicensed driver employed or otherwise directed by the business establishment is the cause of the impoundment of the vehicle, a registered owner of the impounded vehicle may recover damages for the loss of use of the vehicle from the business establishment.

(n)(1) The impounding agency, if requested to do so not later than 10 days after the date the vehicle was impounded, shall provide the opportunity for a poststorage hearing to determine the validity of the storage to the persons who were the registered and legal owners of the vehicle at the time of impoundment, except that the hearing shall be requested within three days after the date the vehicle was impounded if personal service was provided to a registered owner pursuant to paragraph (2) of subdivision (e) and no mailed notice is required.

(2) The poststorage hearing shall be conducted not later than two days after the date it was requested. The impounding agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the storage of the vehicle. Failure of either the registered or legal owner to request a hearing as provided in paragraph (1) or to attend a scheduled hearing shall satisfy the poststorage hearing requirement.

(3) The agency employing the person who directed the storage is responsible for the costs incurred for towing and storage if it is determined that the driver at the time of impoundment had a valid driver's license.

(o) As used in this section, "days" means workdays not including weekends and holidays.

(p) Charges for towing and storage for any vehicle impounded pursuant to this section shall not exceed the normal towing and storage rates for other vehicle towing and storage conducted by the impounding agency in the normal course of business.

(q) The Judicial Council and the Department of Justice may prescribe standard forms and procedures for implementation of this section to be used by all jurisdictions throughout the state.

(r) The impounding agency may act as the agent of the state in carrying out this section.

(s) No vehicle shall be impounded pursuant to this section if the driver has a valid license but the license is for a class of vehicle other than the vehicle operated by the driver.

(t) This section does not apply to vehicles subject to Sections 14608 and 14609, if there has been compliance with the procedures in those sections.

Comment. Section 14607.6 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 27360 (amended). Child passenger restraint systems

SEC. _____. Section 27360 of the Vehicle Code is amended to read:

27360. (a) No parent or legal guardian, when present in a motor vehicle, as defined in Section 27315, shall permit his or her child or ward under the age of four years, regardless of weight, or weighing less than 40 pounds, regardless of age, to be transported upon a highway in the motor vehicle without providing and

properly using, for each child or ward, a child passenger restraint system meeting applicable federal motor vehicle safety standards.

(b) No driver shall transport on a highway any child under four years of age, regardless of weight, or weighing less than 40 pounds, regardless of age, in a motor vehicle, as defined in Section 27315, without providing and properly securing the child in a child passenger restraint system meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(c)(1) A first offense under this section is punishable by a fine of one hundred dollars (\$100), except that the court may waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged and the court, instead, refers the defendant to a child passenger restraint low-cost purchase or loaner program. If the fine is waived, the court shall nevertheless report the conviction to the department pursuant to Section 1803.

(2) A second or subsequent offense under this section is punishable by a fine of one hundred dollars (\$100), no part of which may be waived by the court.

(d) Notwithstanding any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to county health departments where the violation occurred, to be used for a child passenger restraint low-cost purchase or loaner program which shall include, but not be limited to, education on the proper installation and use of a child passenger restraint system. The county health department shall designate a coordinator to facilitate the creation of a special account and to develop a relationship with the municipal court system to facilitate the transfer of funds to the program. The county may contract for the implementation of the program. Prior to obtaining possession of a child passenger restraint system pursuant to this section, a person shall receive information relating to the importance of utilizing that system.

As the proceeds from fines become available, county health departments shall prepare and maintain a listing of all child passenger restraint low-cost purchase or loaner programs in their counties, including a semiannual verification that all programs listed are in existence. Each county shall forward the listing to the Office of Traffic Safety in the Business, Transportation and Housing Agency and the courts, birthing centers, community child health and disability prevention programs, county clinics, prenatal clinics, women, infants, and children programs, and county hospitals in that county, who shall make the listing available to the public. The Office of Traffic Safety shall maintain a listing of all of the programs in the state.

(2) Twenty-five percent to the county for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

Comment. Subdivision (d)(1) of Section 27360 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Veh. Code § 40230 (amended). Appeal to municipal court

SEC. _____. Section 40230 of the Vehicle Code is amended to read:

40230. (a) Within 30 calendar days after the mailing or personal delivery of the final decision described in subdivision (b) of Section 40215, the contestant may seek review by filing an appeal to be heard by the ~~justice or~~ municipal court, *or by the superior court in a county in which there is no municipal court*, where the same shall be heard de novo, except that the contents of the processing agency's file in the case shall be received in evidence. A copy of the notice of parking violation or, if the citation was issued electronically, a true and correct abstract containing the information set forth in the notice of parking violation shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the processing agency by the contestant.

For purposes of computing the 30 calendar-day period, Section 1013 of the Code of Civil Procedure shall be applicable. *A proceeding under this subdivision is a limited civil case.*

(b) The fee for filing the notice of appeal is twenty-five dollars (\$25). The court shall request that the processing agency's file on the case be forwarded to the court, to be received within 15 calendar days of the request. The court shall notify the contestant of the appearance date by mail or personal delivery. The court shall retain the twenty-five dollar (\$25) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the processing agency. Any deposit of parking penalty shall be refunded by the processing agency in accordance with the judgment of the court.

(c) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(d) If no notice of appeal of the processing agency's decision is filed within the period set forth in subdivision (a), the decision shall be deemed final.

(e) If the parking penalty has not been deposited and the decision is against the contestant, the processing agency shall, after the decision becomes final, proceed to collect the penalty pursuant to Section 40220.

Comment. Section 40230 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 40256 (amended). Appeals

SEC. _____. Section 40256 of the Vehicle Code is amended to read:

40256. (a) Within 20 days after the mailing of the final decision described in subdivision (b) of Section 40255, the contestant may

seek review by filing an appeal to the ~~justice or~~ municipal court, *or to the superior court in a county in which there is no municipal court*, where the same shall be heard de novo, except that the contents of the processing agency's file in the case on appeal shall be received in evidence. A copy of the notice of toll evasion violation shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the processing agency by the contestant. For purposes of computing the 20-day period, Section 1013 of the Code of Civil Procedure shall be applicable. *A proceeding under this subdivision is a limited civil case.*

(b) The fee for filing the notice of appeal shall be twenty-five dollars (\$25). If the appellant prevails, this fee, together with any deposit of toll evasion penalty, shall be promptly refunded by the processing agency in accordance with the judgment of the court.

(c) The conduct of the hearing on appeal under this section is a subordinate judicial duty which may be performed by commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(d) If no notice of appeal of the processing agency's decision is filed within the period set forth in subdivision (a), the decision shall be deemed final.

(e) If the toll evasion penalty has not been deposited and the decision is adverse to the contestant, the processing agency may, promptly after the decision becomes final, proceed to collect the penalty under Section 40267.

Comment. Section 40256 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 40502 (amended). Place to appear

SEC. _____. Section 40502 of the Vehicle Code is amended to read:

40502. The place specified in the notice to appear shall be any of the following:

(a) Before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made.

(b) Upon demand of the person arrested, before a ~~municipal court~~ judge or other magistrate having jurisdiction of the offense at the county seat of the county in which the offense is alleged to have been committed. This subdivision applies only if the person arrested resides, or the person's principal place of employment is located, closer to the county seat than to the ~~municipal court~~ or other magistrate nearest or most accessible to the place where the arrest is made.

(c) Before a person authorized to receive a deposit of bail.

The clerk and deputy clerks of the ~~municipal and justice courts~~ *municipal court or of the superior court in a county in which there is no municipal court* are persons authorized to receive bail in accordance with a schedule of bail approved by the judges of those courts.

(d) Before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been committed, if the person arrested appears to be under the age of 18 years. The juvenile court shall by order designate the proper person before whom the appearance is to be made.

In a county which has implemented the provisions of Section 603.5 of the Welfare and Institutions Code, if the offense alleged to have been committed by a minor is classified as an infraction under this code, or is a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, the citation shall be issued as provided in subdivision (a), (b), or (c); provided, however, that if the citation combines an infraction and a

misdemeanor, the place specified shall be as provided in subdivision (d).

If the place specified in the notice to appear is within a *judicial* district or city and county where a department of the municipal court, *or of the superior court in a county in which there is no municipal court*, is to hold a night session within a period of not more than 10 days after the arrest, the notice to appear shall contain, in addition to the above, a statement notifying the person arrested that the person may appear before such a night session of the court.

Comment. Section 40502 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Penal Code § 808 (magistrates). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 40506.5 (amended). Request for continuance

SEC. _____. Section 40506.5 of the Vehicle Code is amended to read:

40506.5. Prior to the date upon which ~~he~~ *the defendant* promised to appear and without depositing bail, the defendant may request a continuance of ~~his~~ *the* written promise to appear. The judge of a municipal ~~or justice court or of a superior court in a county in which there is no municipal~~ court may authorize the clerk to grant the continuance.

Comment. Section 40506.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 40508.6 (amended). Administrative assessments for costs

SEC. _____. Section 40508.6 of the Vehicle Code is amended to read:

40508.6. The Legislature hereby authorizes the establishment of the following program, to be implemented in any county, upon the adoption of a resolution by the board of supervisors authorizing it. For the superior court and each municipal court ~~or justice court~~

district in the county, a board of supervisors may establish administrative assessments, not to exceed ten dollars (\$10), for clerical and administrative costs incurred for the following activities:

(a) An assessment for the cost of recording and maintaining a record of the defendant's prior convictions for violations of ~~the~~ this code. The assessment shall be payable at the time of payment of a fine or when bail is forfeited for any subsequent violations of this code other than parking, pedestrian, or bicycle violations.

(b) An assessment for all defendants whose driver's license or automobile registration is attached or restricted pursuant to Section 40509 or 40509.5, to cover the cost of notifying the Department of Motor Vehicles of the attachment or restriction.

Comment. Section 40508.6 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 42008 (amended). County amnesty program for delinquent fines and bail

SEC. _____. Section 42008 of the Vehicle Code is amended to read:

42008. (a) Any county may operate an amnesty program for delinquent fines and bail imposed for an infraction or misdemeanor violation of the Vehicle Code, except parking violations of the Vehicle Code and violations of Section 23103, 23104, 23152, or 23153. The program shall be implemented by the courts in accordance with Judicial Council guidelines, and shall apply to infraction or misdemeanor violations of the Vehicle Code, except parking violations, upon which a fine or bail was delinquent on or before April 1, 1991.

(b) Under the amnesty program, any person owing a fine or bail due on or before April 1, 1991, that was imposed for an infraction or misdemeanor violation of the Vehicle Code, except violations of Section 23103, 23104, 23152, or 23153 or parking violations, may pay to the municipal ~~or justice court or to the superior court in a county in which there is no municipal~~ court the amount scheduled by the court, which shall be either (1) 70 percent of the total fine or bail or (2) the amount of one hundred dollars (\$100) for an infraction or five hundred dollars (\$500) for a misdemeanor. This

amount shall be accepted by the court in full satisfaction of the delinquent fine or bail.

(c) No criminal action shall be brought against any person for a delinquent fine or bail paid under this amnesty program and no other additional penalties shall be assessed for the late payment of the fine or bail made under the amnesty program.

(d) Notwithstanding Section 1463 *of the Penal Code*, the total amount of funds collected by the courts pursuant to the amnesty program created by this section shall be deposited in the county treasury.

Comment. Section 42008 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

The phrase “of the Penal Code” was inadvertently omitted from subdivision (d) when originally enacted.

Veh. Code § 42203 (amended). Violations on certain county owned premises

SEC. _____. Section 42203 of the Vehicle Code is amended to read:

42203. Notwithstanding Section 42201 or 42201.5, 50 percent of all fines and forfeitures collected in ~~any county municipal court or justice court in any county~~ *a municipal court, or in a superior court in a county in which there is no municipal court*, upon conviction or upon the forfeiture of bail for violations of any provisions of the Vehicle Code, or of any local ordinance or resolution, relating to stopping, standing, or parking a vehicle, that have occurred upon the premises of facilities physically located in such county, but which are owned by another county, which other county furnishes law enforcement personnel for the premises, shall be transmitted pursuant to this section to the county which owns the facilities upon which the violations occurred. The court receiving such moneys shall, once each month, transmit such moneys received in the preceding month to the county treasurer of the county in which the court is located. Once each month in which ~~he~~ *the county treasurer* receives such moneys, the county treasurer shall transmit to the county which owns such facilities an amount

equal to 50 percent thereof. The county owning such facilities shall, upon receipt of such moneys from the municipal court or ~~justice court~~ *superior court* of the county in which the facilities are physically located, deposit such moneys in its county treasury for use solely in meeting traffic control and law enforcement expenses on the premises upon which the violations occurred.

This section shall not apply when the county in which such facilities are located performs all law enforcement functions with respect to such facilities.

Comment. Section 42203 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

WATER CODE

Water Code § 310 (amended). Jurisdiction

SEC. _____. Section 310 of the Water Code is amended to read:

310. All prosecutions for the violation of any of the provisions of this article shall be instituted in the ~~justice court or~~ municipal court of the county in which the well is situated, *or in the superior court in a county in which there is no municipal court.*

Comment. Section 310 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Water Code § 1100 (amended). Manner of taking deposition

SEC. _____. Section 1100 of the Water Code is amended to read:

1100. The board or any party to a proceeding before it may, in any investigation or hearing, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this State *under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure.*

Comment. Section 1100 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

WELFARE AND INSTITUTIONS CODE

Welf. & Inst. Code § 245 (amended). Jurisdiction.

SEC. _____. Section 245 of the Welfare and Institutions Code is amended to read:

245. Each superior court shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of such jurisdiction, shall be known and referred to as the juvenile court. *Appealable orders and judgments of the juvenile court are subject to the appellate jurisdiction of the court of appeal.*

Comment. Section 245 makes clear that the court of appeal is the proper appellate court to review appealable orders and judgments of the juvenile court. See Welf. & Inst. Code §§ 395, 800 (appealable orders and judgments of the juvenile court). The Judicial Council already has enacted rules of practice and procedure governing juvenile court appeals. See Rules of Court, Rules 39, 39.1, 39.1A, 39.1B, 1435, 1436, 1436.5.

Welf. & Inst. Code § 255 (amended). Traffic hearing officers

SEC. _____. Section 255 of the Welfare and Institutions Code is amended to read:

255. The judge of the juvenile court, or in counties having more than one judge of the juvenile court the presiding judge of the juvenile court or the senior judge if there is no presiding judge, may appoint one or more persons of suitable experience, who may be judges of the municipal court, *or of the superior court in a county in which there is no municipal court*, or a probation officer or assistant or deputy probation officers, to serve as juvenile hearing officers on a full-time or part-time basis. A hearing officer shall serve at the pleasure of the appointing judge, and unless the appointing judge makes his or her order terminating the appointment of a hearing officer, the hearing officer shall continue to serve until the appointment of his or her successor. The board of supervisors shall determine whether any compensation shall be paid to hearing officers, not otherwise employed by a public agency or holding another public office, and shall establish the amounts and rates thereof. An appointment of a probation officer, assistant probation officer, or deputy probation officer as a juvenile hearing officer may be made only with the consent of the probation

officer. A juvenile court shall be known as the Informal Juvenile and Traffic Court when a hearing officer appointed pursuant to this section hears a case specified in Section 256.

Comment. Section 255 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Welf. & Inst. Code § 601.4 (amended). Compulsory education violations

SEC. _____. Section 601.4 of the Welfare and Institutions Code is amended to read:

601.4. (a) The juvenile court judge may be assigned to sit as a municipal court judge, *or as a superior court judge in a county in which there is no municipal court*, to hear any complaint alleging that a parent, guardian, or other person having control or charge of a minor has violated Section 48293 of the Education Code. The jurisdiction of the juvenile court granted by this section shall not be exclusive and the charge may be prosecuted instead in a municipal ~~or justice court~~, *or in a superior court in a county in which there is no municipal court*. However, upon motion, that action shall be transferred to the juvenile court.

(b) Notwithstanding Section 737 of the Penal Code, a violation of Section 48293 of the Education Code may be prosecuted pursuant to subdivision (a), by written complaint filed in the same manner as an infraction may be prosecuted ~~in a municipal or justice court~~. The juvenile court judge, sitting as a municipal court judge *or as a superior court judge in a county in which there is no municipal court*, may coordinate the action involving the minor with any action involving the parent, guardian, or other person having control or charge of the minor. Both matters may be heard and decided at the same time unless the parent, guardian, other person having control or charge of the minor, or any member of the press or public objects to closed hearing of the proceedings charging violation of Section 48293 of the Education Code.

Comment. Section 601.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The jurisdictional and procedural distinctions between a judge sitting as a juvenile court judge and sitting as a superior court judge are significant and are preserved in this amendment. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Welf. & Inst. Code § 603.5 (amended). Vehicle Code infractions or violation of local ordinances involving motor vehicles by minor

SEC. _____. Section 603.5 of the Welfare and Institutions Code is amended to read:

603.5. (a) Notwithstanding any other provision of law, in counties which adopt the provisions of this section, jurisdiction over the case of a minor alleged to have committed only a violation of the Vehicle Code classified as an infraction or a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, is with the municipal court *or the superior court in a county in which there is no municipal court*, except that the ~~municipal~~ court may refer to the juvenile court for adjudication, cases involving a minor who has been adjudicated a ward of the juvenile court, or who has other matters pending in the juvenile court.

(b) The cases specified in subdivision (a) shall not be governed by the procedures set forth in the juvenile court law.

(c) Any provisions of juvenile court law requiring that confidentiality be observed as to cases and proceedings, prohibiting or restricting the disclosure of juvenile court records, or restricting attendance by the public at juvenile court proceedings shall not apply. The procedures for bail specified in Chapter 1 (commencing with Section 1268) of Title 10 of Part 2 of the Penal Code shall apply.

(d) The provisions of this section shall apply in a county in which the board of supervisors, with the concurrence of the presiding judges of the superior, juvenile, and *any* municipal courts, adopts a resolution making the section applicable in the county as to any matters to be heard by the municipal *or superior* court pursuant to this section, or in which a trial court coordination plan has been approved by the Judicial Council pursuant to Section 68112 of the Government Code that provides for the coordination of matters pursuant to this section.

Comment. Section 603.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Welf. & Inst. Code § 656 (amended). Petition to declare minor ward of court

SEC. _____. Section 656 of the Welfare and Institutions Code is amended to read:

656. A petition to commence proceedings in the juvenile court to declare a minor a ward of the court shall be verified and shall contain all of the following:

- (a) The name of the court to which it is addressed.
- (b) The title of the proceeding.
- (c) The code section and subdivision under which the proceedings are instituted.
- (d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.
- (e) The names and residence addresses, if known to the petitioner, of both of the parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to the petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there are none, the adult relative residing nearest to the location of the court.
- (f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.
- (g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the minor was taken into custody.
- (h) A notice to the father, mother, spouse, or other person liable for support of the minor child, that: (1) Section 903 may make that person, the estate of that person, and the estate of the minor child, liable for the cost of the care, support, and maintenance of the minor child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 may make that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of legal services rendered to the minor by a

private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 may make that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of the probation supervision of the minor child by the probation officer pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

(i) In a proceeding alleging that the minor comes within Section 601, notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a municipal court judge *or as a superior court judge in a county in which there is no municipal court*. In those cases, the petition shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure.

(j) If a proceeding is pending against a minor child for a violation of Section 594.2, 640.5, 640.6, or 640.7 of the Penal Code, a notice to the parent or legal guardian of the minor that if the minor is found to have violated either or both of these provisions that (1) any community service which may be required of the minor may be performed in the presence, and under the direct supervision, of the parent or legal guardian pursuant to either or both of these provisions; and (2) if the minor is personally unable to pay any fine levied for the violation of either or both of these provisions, that the parent or legal guardian of the minor shall be liable for payment of the fine pursuant to those sections.

(k) A notice to the parent or guardian of the minor that if the minor is ordered to make restitution to the victim pursuant to Section 729.6, as operative on or before August 2, 1995, Section 731.1, as operative on or before August 2, 1995, or Section 730.6, or to pay fines or penalty assessments, the parent or guardian may be liable for the payment of restitution, fines, or penalty assessments.

Comment. Section 656(i) is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment. The jurisdictional and procedural distinctions between a judge sitting as a juvenile court judge and sitting as a superior court judge are significant and are preserved in this amendment.

Welf. & Inst. Code § 661 (amended). Notice and citation

SEC. _____. Section 661 of the Welfare and Institutions Code is amended to read:

661. In addition to the notice provided in Sections 658 and 659, the juvenile court may issue its citation directing any parent, guardian, or foster parent of the person concerning whom a petition has been filed to appear at the time and place set for any hearing or financial evaluation under the provisions of this chapter, including a hearing under the provisions of Section 257, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring the minor with him or her. The notice shall in addition state that a parent, guardian, or foster parent may be required to participate in a counseling or education program with the minor concerning whom the petition has been filed. If the proceeding is one alleging that the minor comes within the provisions of Section 601, the notice shall in addition contain notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a municipal court judge *or as a superior court judge in a county in which there is no municipal court*. In those cases, the notice shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure. Personal service of the citation shall be made at least 24 hours before the time stated therein for the appearance.

Comment. Section 661 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment. The jurisdictional and procedural

distinctions between a judge sitting as a juvenile court judge and sitting as a superior court judge are significant and are preserved in this amendment.

Welf. & Inst. Code § 742.16 (amended). Restitution

SEC. _____. Section 742.16 of the Welfare and Institutions Code is amended to read:

742.16. (a) If a minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6 or 640.7 of the Penal Code, and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate, shall require the minor to wash, paint, repair, or replace the property defaced, damaged, or destroyed by the minor or otherwise pay restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both. In any case in which the minor is not granted probation or in which the minor's cleanup, repair, or replacement of the property will not return the property to its condition before it was defaced, damaged, or destroyed, the court shall make a finding of the amount of restitution that would be required to fully compensate the owner and possessor of the property for their damages. The court shall order the minor or the minor's estate to pay that restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both, to the extent the court determines that the minor or ~~his~~ *the minor's* estate have the ability to do so, except in any case in which the court makes a finding and states on the record its reasons why full restitution would be inappropriate. If full restitution is found to be inappropriate, the court, shall require the minor to perform specified community service, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate.

(b) If a minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the graffiti or other material inscribed by the minor has been removed, or the property defaced by the minor has been repaired or replaced

by a public entity that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section and has made cost findings in accordance with subdivisions (c) or (d) of Section 742.14, the court shall determine the total cost incurred by the public entity for said removal, repair, or replacement, using, if applicable, the cost findings most recently adopted by the public entity pursuant to subdivision (c) or (d) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

(c) If the minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code and the minor was identified or apprehended by the law enforcement agency of a city or county that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section, the court shall determine the cost of identifying or apprehending the minor, or both, using, if applicable, the cost findings adopted by the city or county pursuant to subdivision (b) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

(d) If the court determines that the minor or the minor's estate is unable to pay in full the costs and damages determined pursuant to subdivisions (a), (b), and (c), and if the minor's parent or parents have been cited into court pursuant to Section 742.18, the court shall hold a hearing to determine the liability of the minor's parent or parents pursuant to Section 1714.1 of the Civil Code for those costs and damages. Except when the court makes a finding setting forth unusual circumstances in which parental liability would not serve the interests of justice, the court shall order the minor's parent or parents to pay those costs and damages to the probation officer of the county to the extent the court determines that the parent or parents have the ability to pay, if the minor was in the

custody or control of the parent or parents at the time he or she committed the act that forms the basis for the finding that the minor is a person described in Section 602. In evaluating the parent's or parents' ability to pay, the court shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income.

(e) The hearing described in subdivision (d) may be held immediately following the disposition hearing or at a later date, at the option of the court.

(f) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) is five thousand dollars (\$5,000) or less, the parent or parents may not be represented by counsel and the probation officer of the county shall be represented by his or her nonattorney designee. The court shall conduct such a hearing in accordance with Sections 116.510 and 116.520 of the Code of Civil Procedure. Notwithstanding the foregoing, if the court determines that a parent cannot properly present his or her defense, the court may, in its discretion, allow another individual to assist that parent. In addition, a husband or wife may appear and participate in the hearing on behalf of his or her spouse if the representative's spouse has given his or her consent and the court determines that the interest of justice would be served thereby.

(g) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) exceeds five thousand dollars (\$5,000), the parent or parents may be represented by counsel of his or her or their own choosing, and the probation officer of the county shall be represented by the district attorney or an attorney or nonattorney designee of the probation officer. The parent or parents shall not be entitled to court-appointed counsel or to counsel compensated at public expense.

(h) At the hearing conducted pursuant to subdivision (d), there shall be a presumption affecting the burden of proof that the findings of the court made pursuant to subdivisions (a), (b), and (c) represent the actual damages and costs attributable to the act of the minor that forms the basis of the finding that the minor is a person described in Section 602.

(i) If the parent or parents after having been cited to appear pursuant to Section 742.18, fail to appear as ordered, the court shall order the parent or parents to pay the full amount of the costs and damages determined by the court pursuant to subdivisions (a), (b), and (c).

(j) Execution may be issued on an order issued by the court pursuant to this section in the same manner as on a judgment in a civil action, including any balance unpaid at the termination of the court's jurisdiction over the minor.

(k) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the showing of a change in circumstances relating to his or her ability to pay the judgment.

(l) For purposes of a hearing conducted pursuant to subdivision (d), the judge of the juvenile court shall have the jurisdiction of a judge of the municipal court *or of the superior court in a limited civil case*, and where the amount of the demand is five thousand dollars (\$5,000) or less, the judge of the juvenile court shall have the powers of a judge presiding over the small claims court.

(m) Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

(n) The options available to the court pursuant to subdivisions (a), (b), (c), (d), and (k), to order payment by the minor and his or her parent or parents of less than the full costs described in subdivisions (a), (b), and (c), on grounds of financial inability or for reasons of justice, shall not be available to a municipal court in an ordinary civil proceeding pursuant to subdivision (b) of Section 1714.1 of the Civil Code, except that in any proceeding pursuant to either subdivision (b) of Section 1714.1 of the Civil Code or this section, the maximum amount that a parent or a minor may be ordered to pay shall not exceed twenty thousand dollars (\$20,000) for each tort of the minor.

Comment. Section 742.16 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

When the juvenile court judge sits to determine the liability of parents or guardians the judge has the jurisdiction of a municipal court judge. See subdivision (l). The amount in controversy cannot exceed \$25,000. See

subdivision (d), referring to Civ. Code § 1714.1. *Cf.* Code Civ. Proc. § 85 (limited civil cases).

Welf. & Inst. Code § 3050 (amended). Possible narcotic addiction of person convicted of misdemeanor or infraction

SEC. _____. Section 3050 of the Welfare and Institutions Code is amended to read:

3050. Upon conviction of a defendant of *a misdemeanor or infraction* ~~any crime in a municipal or justice court~~, or following revocation of probation previously granted *for a misdemeanor or infraction*, whether or not sentence has been imposed, if it appears to the judge that the defendant may be addicted or by reason of repeated use of narcotics may be in imminent danger of becoming addicted to narcotics, such judge shall adjourn the proceedings or suspend the imposition or execution of the sentence, certify the defendant to the superior court and order the district attorney to file a petition for a commitment of the defendant to the Director of Corrections for confinement in the narcotic detention, treatment and rehabilitation facility.

Upon the filing of such a petition, the superior court shall order the defendant to be examined by one physician. At the request of the defendant, the court shall order the defendant to be examined by a second physician. At least one day before the time of the examination as fixed by the court order, a copy of the petition and order for examination shall be personally delivered to the defendant. A written report of the examination by the physician or physicians shall be delivered to the court, and if the report is to the effect that the person is not addicted nor in imminent danger of addiction, it shall so certify and return the defendant to the ~~municipal or justice court~~ which certified such defendant to the superior court for such further proceedings as the judge of such ~~municipal or justice court~~ deems warranted. If the report is to the effect that the defendant is addicted or is by reason of the repeated use of narcotics in imminent danger of addiction, further proceedings shall be conducted in compliance with Sections 3104, 3105, 3106, and 3107.

If, after a hearing, the judge finds that the defendant is a narcotic addict, or is by reason of the repeated use of narcotics in imminent

danger of becoming addicted thereto, and is not ineligible for the program under the application of Section 3052, he or she shall make an order committing such defendant to the custody of the Director of Corrections for confinement in the facility until such time as he or she is discharged pursuant to Article 5 (commencing with Section 3200), except as this chapter permits earlier discharge. If, upon the hearing, the judge shall find that the defendant is not a narcotic addict and is not in imminent danger of becoming addicted to narcotics, the judge shall so certify and return the defendant to the ~~municipal or justice~~ court which certified the defendant to the superior court for such further proceedings as the judge of the ~~municipal or justice~~ court *which certified the defendant to the superior court* deems warranted.

If a person committed pursuant to this section is dissatisfied with the order of commitment, he or she may within 10 days after the making of such order, file a written demand for a jury trial in compliance with Section 3108.

Comment. Section 3050 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Welf. & Inst. Code § 3051 (amended). Possible narcotic addiction of person convicted of felony

SEC. _____. Section 3051 of the Welfare and Institutions Code is amended to read:

3051. Upon conviction of a defendant for ~~any crime in any superior court~~, a *felony*, or following revocation of probation previously granted *for a felony*, and upon imposition of sentence, if it appears to the judge that the defendant may be addicted or by reason of repeated use of narcotics may be in imminent danger of becoming addicted to narcotics the judge shall suspend the execution of the sentence and order the district attorney to file a petition for commitment of the defendant to the Director of Corrections for confinement in the narcotic detention, treatment, and rehabilitation facility unless, in the opinion of the judge, the defendant's record and probation report indicate such a pattern of

criminality that he or she does not constitute a fit subject for commitment under this section.

Upon the filing of the petition, the court shall order the defendant to be examined by one physician. However, the examination may be waived by a defendant if the defendant has been examined in accordance with Section 1203.03 of the Penal Code and that examination encompassed whether defendant is addicted or is in imminent danger of addiction, and if the defendant is represented by counsel and competent to understand the effect of the waiver. In cases where a physician's report is waived by the defendant, the Department of Corrections may perform an evaluation and provide a report as to the defendant's addiction or imminent danger of addiction. If the Department of Corrections determines that the defendant is not addicted or in imminent danger of addiction, the defendant shall be returned to the sentencing court for resentencing. The examination may also be waived upon stipulation by the defendant, his or her attorney, the prosecutor, and the court that the defendant is addicted or is in imminent danger of addiction. If a physician's report is prepared, at the request of the defendant, the court shall order the defendant to be examined by a second physician. At least one day before the time of the examination as fixed by the court order, a copy of the petition and order for examination shall be personally delivered to the defendant. A written report of the examination by the physician or physicians shall be delivered to the court, and if the report is to the effect that the person is not addicted nor in imminent danger of addiction, it shall so certify and return the defendant to the department of the superior court that directed the filing of the petition for the ordering of the execution of the sentence. The court may, unless otherwise prohibited by law, modify the sentence or suspend the imposition of the sentence. If the report is to the effect that the defendant is addicted or is by reason of the repeated use of narcotics in imminent danger of addiction, further proceedings shall be conducted in compliance with Sections 3104, 3105, 3106, and 3107.

If, after a hearing, the judge finds that the defendant is a narcotic addict, or is by reason of the repeated use of narcotics in imminent

danger of becoming addicted to narcotics, the judge shall make an order committing the person to the custody of the Director of Corrections for confinement in the facility until a time that he or she is discharged pursuant to Article 5 (commencing with Section 3200), except as this chapter permits earlier discharge. If, upon the hearing, the judge finds that the defendant is not a narcotic addict and is not in imminent danger of becoming addicted to narcotics, the judge shall so certify and return the defendant to the department of the superior court that directed the filing of the petition for the ordering of execution of sentence. The court may, unless otherwise prohibited by law, modify the sentence or suspend the imposition of the sentence.

If a person committed pursuant to this section is dissatisfied with the order of commitment, he or she may, within 10 days after the making of the order, file a written demand for a jury trial in compliance with Section 3108.

A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code may perform the examination specified in this section and Section 3050. This section does not expand the scope of practice of psychologists as set forth in Section 2903 of the Business and Professions Code nor does this section allow a psychologist to perform any activity that would otherwise require a physician's and surgeon's license.

Comment. Section 3051 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Welf. & Inst. Code § 3200 (amended). Recommendation of discharge

SEC. _____. Section 3200 of the Welfare and Institutions Code is amended to read:

3200. (a) If at any time the Director of Corrections is of the opinion that a person committed pursuant to Article 3 (commencing with Section 3100) while in outpatient status has abstained from the use of narcotics, other than as medically prescribed in a narcotic treatment program pursuant to Section 3154, for at least six consecutive months and has otherwise complied with the conditions of his or her release, the director shall

recommend to the Narcotic Addict Evaluation Authority that the person be discharged from the program. If the authority concurs in the opinion of the director, it shall discharge the person from the program.

(b) If at any time the director is of the opinion that a person committed for a period of 24 months, or less, pursuant to Article 2 (commencing with Section 3050) while in outpatient status has abstained from the use of narcotics, other than as medically prescribed in a narcotic treatment program pursuant to Section 3154, for at least 12 consecutive months and has otherwise complied with the conditions of his or her release, or if at any time the director is of the opinion that a person committed for a period of more than 24 months pursuant to Article 2 (commencing with Section 3050) while in outpatient status has abstained from the use of narcotics, other than as medically prescribed in a narcotic treatment program pursuant to Section 3154, for at least 16 consecutive months and has otherwise complied with the conditions of his or her release, the director shall so advise the Narcotic Addict Evaluation Authority. If the authority concurs in the opinion of the director, it shall file with the superior court of the county in which the person was committed a certificate alleging those facts and recommending to the court the discharge of the person from the program. The authority shall serve a copy of the certificate upon the district attorney of the county. Upon the filing of the certificate, the court shall discharge the person from the program. The court may, unless otherwise prohibited by law, modify the sentence, dismiss the criminal charges of which the person was convicted, or suspend further proceedings, as it deems warranted in the interests of justice. Where the person was certified to the superior court ~~from a municipal or justice court, pursuant to Section 3050~~ the person shall be returned to ~~that court~~ *the court that certified the person*, which may dismiss the original charges. In any case where the criminal charges are not dismissed and the person is sentenced thereon, time served in custody while under commitment pursuant to Article 2 (commencing with Section 3050) shall be credited on the sentence. The dismissal shall have the same force and effect as a dismissal under Section 1203.4 of

the Penal Code, except the conviction is a prior conviction for purposes of Division 10 (commencing with Section 11000) of the Health and Safety Code.

Comment. Section 3200 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Welf. & Inst. Code § 11350.7 (amended). Delinquent support payments

SEC. _____. Section 11350.7 of the Welfare and Institutions Code is amended to read:

11350.7. (a) Notwithstanding any other provision of law, if any support obligor is delinquent in the payment of support for at least 30 days and the district attorney is enforcing the support obligation pursuant to Section 11475.1, the district attorney may collect the delinquency or enforce any lien by levy served on all persons having in their possession, or who will have in their possession or under their control, any credits or personal property belonging to the delinquent support obligor, or who owe any debt to the obligor at the time they receive the notice of levy.

(b) A levy may be issued by a district attorney for a support obligation which accrued under a court order or judgment if the obligor had notice of the accrued support arrearage as provided in this section, and did not make a timely request for review.

(c) The notice requirement shall be satisfied by the district attorney sending a statement of support arrearages to the obligor at the obligor's last known address by first-class mail, postage prepaid. The notice shall advise the obligor of the amount of the support arrearage. The notice shall advise the obligor that the obligor may have the arrearage determination reviewed by administrative procedures and state how such a review may be obtained. The notice shall also advise the obligor of his or her right to seek a judicial determination of arrearages pursuant to Section 11350.8 and shall include a form to be filed with the court to request a judicial determination of arrearages. If the obligor requests an administrative review of the arrearage determination within 20 days from the date the notice was mailed to the obligor,

the district attorney shall review the assessment or determination and shall not issue the levy for a disputed amount of support until the administrative review procedure is completed.

(d) If the obligor requests a judicial determination of the arrearages within 20 days from the date the notice was mailed to the obligor, the district attorney shall not issue the levy for a disputed amount of support until the judicial determination is complete.

(e) Any person upon whom a levy has been served having in his or her possession or under his or her control any credits or personal property belonging to the delinquent support obligor or owing any debts to the delinquent support obligor at the time of receipt of the levy or coming into his or her possession or under his or her control within one year of receipt of the notice of levy, shall surrender the credits or personal property to the district attorney or pay to the district attorney the amount of any debt owing the delinquent support obligor within 10 days of service of the levy, and shall surrender the credits or personal property, or the amount of any debt owing to the delinquent support obligor coming into his or her own possession or control within one year of receipt of the notice of levy within 10 days of the date of coming into possession or control of the credits or personal property or the amount of any debt owing to the delinquent support obligor.

(f) Any person who surrenders any credits or personal property or pays the debts owing the delinquent support obligor to the district attorney pursuant to this section shall be discharged from any obligation or liability to the delinquent support obligor to the extent of the amount paid to the district attorney as a result of the levy.

(g) If the levy is made on a deposit or credits or personal property in the possession or under the control of a bank, savings and loan association, or other financial institution as defined by Section 669A(d)(1) of Title 42 of the United States Code, the notice of levy may be delivered or mailed to a centralized location designated by the bank, savings and loan association, or other financial institution pursuant to Section 689.040 of the Code of Civil Procedure.

(h) Any person who is served with a levy pursuant to this section and who fails or refuses to surrender any credits or other personal property or pay any debts owing to the delinquent support obligor shall be liable in his or her own person or estate to the district attorney in an amount equal to the value of the credits or other personal property or in the amount of the levy, up to the amount specified in the levy.

(i) If any amount required to be paid pursuant to a levy under this section is not paid when due, the district attorney may issue a warrant for enforcement of any lien and for the collection of any amount required to be paid to the district attorney under this section. The warrant shall be directed to any sheriff, constable, marshal, or the Department of the California Highway Patrol and shall have the same force and effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the manner and with the same force and effect as a levy and sale pursuant to a writ of execution. The district attorney may pay or advance to the levying officer the same fees, commissions, and expenses for his or her services under this section as are provided by law for similar services pursuant to a writ of execution, except for those fees and expenses for which the district attorney is exempt by law from paying. The district attorney, and not the court, shall approve the fees for publication in a newspaper.

(j) The fees, commissions, expenses, and the reasonable costs associated with the sale of property levied upon by warrant or levy pursuant to this section, including, but not limited to, appraisers' fees, auctioneers' fees, and advertising fees are an obligation of the support obligor and may be collected from the obligor by virtue of the warrant or levy or in any other manner as though these items were support payments delinquent for at least 30 days.

Comment. Section 11350.7 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

UNCODIFIED

Section 22 of the Protection District Act of 1895 (amended). Claim for damages

SEC. _____. Section 22 of the Protection District Act of 1903 (Chapter 201 of the Statutes of 1895) is amended to read:

Sec. 22. When sufficient money is in such Protection District Fund to pay for the property taken and damaged, according to the award of damages made in the report adopted by the Board of Supervisors, as provided in section seventeen hereof, the Clerk of the Board of Supervisors shall notify the owner, possessor, or occupant of any land or improvement thereon to whom damages shall have been awarded, that such award has been made, and the amount thereof, and that upon such person filing a claim and tendering a conveyance of any property to be taken, such claim will be allowed and such damages paid. Such notice shall be given by depositing such notice in the Post Office at the county seat of such county, postage prepaid, addressed to such owner, possessor, or occupant, if his *the* name be known. In case the property is unoccupied, and the name of the owners is unknown, or in case such unoccupied property is set down as belonging to unknown owners for the reasons given in section fourteen hereof, such notice shall be delivered to the Sheriff ~~or to a Constable~~, who shall serve the same by posting a copy in a conspicuous place upon the property named in said notice, and indorse a certificate of service upon the original notice, and file the same with the Clerk of the Board of Supervisors.

Comment. Section 22 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Section 4 of the Drainage District Act of 1903 (amended). Appeals

SEC. _____. Section 4 of the Drainage District Act of 1903 (Chapter 238 of the Statutes of 1903) is amended to read:

Sec. 4. The right of appeal from said order to the superior court of the county where said petition is heard, is hereby given to any person interested, who is a party to the record; provided, that if more than one appeal be taken they shall be consolidated and tried together. Such appeal shall be taken within ten days after the entry

of such order upon the minutes of the board of supervisors. The appeal shall be taken and heard in the same manner as *other* appeals ~~from justices' courts~~ to the *appellate division of the* superior court, except as herein otherwise provided. Upon the appeal, the superior court may make and enter its judgment affirming, modifying, or reversing the order appealed from. Within ten days thereafter, the superior court must cause its remittitur to issue to said board of supervisors, and if said order of the board of supervisors is modified or reversed, the judgment of the superior court and its remittitur shall direct the board of supervisors what order it shall enter. Such remittitur shall be filed by the clerk of the board of supervisors, and at the first regular meeting of the board thereafter, it shall cause to be entered in its minutes the order as directed by said superior court. The appeal herein provided for shall be heard and determined within thirty days from the time of filing the notice of appeal.

Comment. Section 4 is amended to reflect elimination of the justices' court. Cal. Const. art. VI, §§ 1, 5.

Urgency clause

SEC. _____. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Senate Constitutional Amendment 4 of the 1995-96 Regular Session of the Legislature, as approved by the voters, changes the appellate jurisdiction of the courts and enables the municipal and superior courts in a county to unify. It is necessary that implementing measures be taken immediately so that an orderly transition of the court system will occur.
